



Queen Margaret University  
CONSUMER DISPUTE RESOLUTION  
CENTRE

# Consumer representation in financial services

Report into consumer representation in the  
payments sector

20 October 2017

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The Consumer Dispute Resolution Centre (CDRC) is a Centre of Excellence for continuing professional development (CPD), research and knowledge exchange in dispute resolution, complaint management and consumer policy. This Centre contributes to the evidence base for policy and practice, providing world leading multidisciplinary research. Through the provision of high quality CPD and consultancy, our research and knowledge exchange activities contribute to the professionalisation of complaint handling throughout the UK and internationally. Our activities influence policy and practice to enhance the consumer experience of dispute resolution. We contribute innovative thinking and analysis for policy makers and academic networks.

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The views and statements expressed in this report reflect the research team's independent views and do not necessarily represent the views of Bacs.



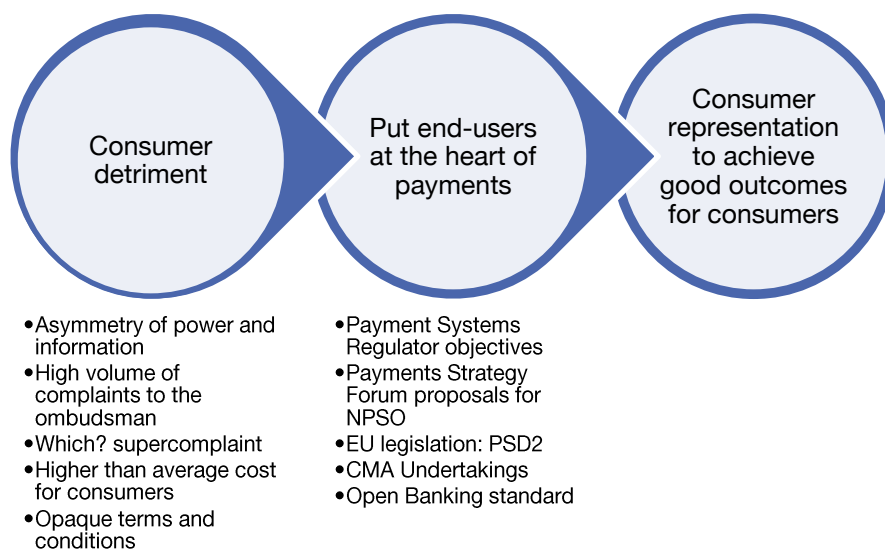
## Executive summary

### Context

The financial services market is complex and power is traditionally weighted in favour of providers. This asymmetry of power compromises the effectiveness of competition and can lead to consumer detriment. Effective consumer representation can help rebalance the asymmetry of power in the market, bring clarity about the issues faced by consumers and help prioritise strategies to address problems and forward plan effectively.

A number of recent developments have focused attention on how the interests of consumers can best be represented in the payments sector. These include the Payments Strategy Forum's proposals for the New Payment System Operator (NPSO); the introduction of the Payment Services Directive 2 (PSD2); and the Competition and Market Authority's requirements to introduce Open Banking and for the Current Account Switch Service to introduce consumer representation in its decision-making.

#### *Drivers for consumer representation in the payments sector*



### The research

The aims of the research are to: (1) identify ways in which the availability and quality of consumer representation can be improved in the payments sector; and (2) ensure that good consumer outcomes remain at the centre of deliberations about how to develop, deliver and monitor the effectiveness of new products and services.

We defined a 'consumer' as 'anyone, whether they are an individual or an SME, that uses (or would like to use) the service provided'. In adopting this definition, we are including 'potential consumers' who do not have access to a service or have not yet chosen to use it, and excluding price comparison websites, large corporates and government departments.

The research was conducted in four phases during June and July 2017: (1) literature review; (2) interviews and an online survey; (3) analysis; and (4) a roundtable event. Interviewees represented

key consumer organisations in the UK. The research provided useful insights from consumer representatives which was then compared and contrasted with the literature.

### Effective consumer representation

#### *Principles*

There are well established consumer principles which when used as a tool to assess the consumer interest result in a stronger consumer focus in policy, strategy and operational planning.<sup>1</sup>

Additionally, the literature review, confirmed by interviews with consumer representatives themselves, exposed some key principles that underpin effective consumer representation.

#### *Principles underpinning and contributing to effective consumer representation*



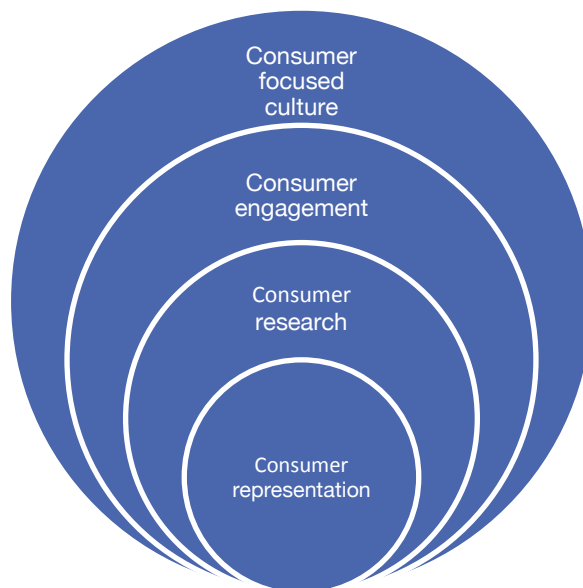
#### *The relationship between consumer representation and consumer engagement*

The terms 'consumer representation' and 'consumer engagement' are often used interchangeably, but they are not the same. While they are both forms of consumer involvement, consumer engagement can be seen as broader than and encompassing 'consumer representation'. Consumer representation therefore may be viewed as part of an organisation's wider engagement strategy to take account of the interests of consumers.

<sup>1</sup>SCOTTISH LEGAL COMPLAINTS COMMISSION. 2017. *Reimagine Regulation: priorities for a consultation on legal services*. [online]. Available from: [https://www.scottishlegalcomplaints.org.uk/media/65853/1\\_reimagine\\_regulation\\_-\\_slcc\\_priorities\\_for\\_a\\_consultation\\_on\\_legal\\_services\\_regulation\\_v1.00.pdf](https://www.scottishlegalcomplaints.org.uk/media/65853/1_reimagine_regulation_-_slcc_priorities_for_a_consultation_on_legal_services_regulation_v1.00.pdf).

See also LEGAL SERVICES CONSUMER PANEL. 2014. *The consumer interest: using consumer principles* [online]. Available from: <http://www.legalservicesconsumerpanel.org.uk/ourwork/ConsumerEngagement/documents/UsingConsumerPrinciples2014.pdf>

### *Relationship between consumer representation and consumer engagement*



Research participants recognised the ‘catalytic’ impact consumer representatives could have in driving wider engagement but they also noted the company must take responsibility for embedding the consumer strategy within its operations. This requires a consumer-focused culture.

### Facilitating effective consumer representation

#### *Setting objectives and evaluating outcomes*

It is important that the objectives for consumer engagement are clear and articulated. This helps ‘frame’ the consumer representative role. It also enables an evaluation of the organisation’s contribution to good consumer outcomes and an assessment of the representation model adopted.

The International Association for Public Participation depicts a spectrum for public engagement which provides a helpful template for firms and consumer representatives to agree goals for working together. This spectrum ranges from approaches to informing participants to strengthen their understanding of the problems to, at the far end of the spectrum, empowering participants by placing the decision in the hands of the public.

#### *Public participation spectrum<sup>2</sup>*



#### *Getting the structure right*

The literature exposes two dominant structures for consumer representation which are also reflected in the approaches to consumer representation within the New Payment System Operator, Current Account Switch Service and Open Banking Implementation Entity:

IAP2. 2017. IAP2’s Public Participation Spectrum [online] Available from:

<sup>2</sup>[https://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/foundations\\_course/IAP2\\_P2\\_Spectrum\\_FINAL.pdf](https://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/foundations_course/IAP2_P2_Spectrum_FINAL.pdf)

- (1) individual consumer representation where a single representative is, for example, a member of a governing body; and
- (2) some form of collective forum consisting of consumer representatives such as a consumer panel, consumer expert group or consumer council.

A mix of both representatives on boards and a collective forum can provide for influential consumer representation. But consumer experts suggested that what was central to success was having a consumer-focused culture.

### *Attracting consumer representatives to the industry*

Interviewees noted that payments was not an area that consumer organisations had traditionally engaged with to any great extent. Recruiting consumer representatives to the industry is likely to require searching out transferable skillsets rather than specific subject matter expertise, using both a wide, open advertisement policy, combined with a more direct approach.

Helpful guidance on appointment criteria for consumer representatives in government and industry has been produced by the Commonwealth Consumer Affairs Advisory Council<sup>3</sup>. They also recommend that representatives are paid a sitting fee or, depending on the body, an annual salary.

### *Training and resourcing*

Payments is a fast moving industry. A large part of the work in payments focuses on the 'plumbing' of payments, which has an indirect impact on consumers. The technicalities of payments can be difficult to get to grips with. Given the challenges in the payments sector, 'processes' that support capacity building and training are therefore essential.

Interviewees highlighted that there is a significant amount of activity by industry in this sector which can be difficult for consumer groups to match, which placed them at a serious disadvantage. Resourcing these appointments not only involves paying the representative but also providing for an appropriate research budget and administrative and technical support.

## Conclusions

On the basis of the research findings, we have reached the following six conclusions as to how good systems of consumer representation might be developed for the payments sector:

1. Consumers should be put at the heart of all decision making. Consumer representation should be viewed as part of a company's broader consumer engagement, communication and advocacy strategy. Consumer values should be at the heart of service providers' culture and strategy.
2. Consumer representation should ideally be structured to include both board and collective forum representatives and supplemented by direct outreach to other consumer groups.
3. Consumer representation structures should be adequately resourced to rebalance power between the industry and the consumer. The consumer engagement strategy must include the

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<sup>3</sup> COMMONWEALTH CONSUMER AFFAIRS ADVISORY COUNCIL. 2005. *Principles for the appointment of consumer representatives: A process for governments and industry* [online] Available from: [http://archive.treasury.gov.au/documents/994/PDF/consumer\\_reps.pdf](http://archive.treasury.gov.au/documents/994/PDF/consumer_reps.pdf)

allocation of resources to attract and pay consumer representatives, enable research and provide administrative support.

4. The role and way of working of consumer representatives should be transparent and influential. In order to promote transparency, key representative objectives, performance information, minutes of meetings and annual reports should be made publicly available.

5. It is important to appoint and develop effective consumer representatives. Training and capacity building should be provided.

6: The effectiveness of consumer representation should be evaluated. Clear, measurable objectives should be set for the organisation's approach to consumer engagement and consumer representation.

# 1. Introduction and background

## 1.1 The research

In May 2017, Queen Margaret University was commissioned by Bacs, the company responsible for Direct Debit and Bacs Direct Credit in the UK, to carry out research into what good consumer representation in financial services might look like, with specific reference to the payments sector. Bacs is also responsible for owning and managing the Current Account Switch Service (CASS). The financial services market is complex and power is traditionally weighted in favour of providers. This asymmetry of power compromises the effectiveness of competition and can lead to consumer detriment. Effective consumer representation can help rebalance the asymmetry of power in the market, bring clarity about the issues faced by consumers and help prioritise strategies to address problems and forward plan effectively. There has been a rising interest over the last decade in the importance of consumer representation and engagement, particularly in regulated industries in the UK and elsewhere.<sup>4</sup>

## 1.2 Key drivers for consumer representation in the payments sector

Ensuring the consumer interest is represented is particularly important in this complex market which consumers find difficult to navigate.<sup>5</sup> As illustrated in the Financial Conduct Authority's (FCA) occasional paper on access to financial services,<sup>6</sup> poorly informed decisions can have a major financial and emotional impact on consumers. While consumers generally have a choice of providers for financial services, research<sup>7</sup> has found high levels of detriment with a higher prevalence of unfair sales practices, such as the specification of unclear terms and conditions, or inadequate notice of cancellation, than in other sectors.

“

*...we think that there's been some failings in terms of consumer representation or putting consumer interests first, which has manifested itself in some of the failings that we've seen in the market. For example, around PPI ...if there had been more consumer representation, or thought given, then we might not have seen some of those failings happen'. (consumer expert 5)*

<sup>4</sup>UKRN. 2017. *Consumer engagement in regulatory services: a guide to how UK regulators involve consumers, hear their views and take their interests into account*. [online] Available from: [http://www.ukrn.org.uk/wp-content/uploads/2017/04/UKRN-Consumer\\_Engagement\\_WEB.pdf](http://www.ukrn.org.uk/wp-content/uploads/2017/04/UKRN-Consumer_Engagement_WEB.pdf); LODGE. M. 2016. (ed) *Customer engagement in regulation*. Centre for Analysis of Risk and Regulation (CARR) Discussion Paper No 82. [online] Available from: <http://www.lse.ac.uk/accounting/CARR/pdf/DPs/DP-82.pdf>.

ESAN. 2017. *How can the consumer voice be better heard in the regulation of essential services*. [online] Available from: <http://www.esan.org.uk/wp-content/uploads/Final-ESAN-event-paper-23-Dec-2016.pdf>

<sup>5</sup>FINANCIAL SERVICES CONSUMER PANEL. 2009. *Consumer responsibility: the Financial Services Consumer Panel response to Discussion Paper 08/5*.

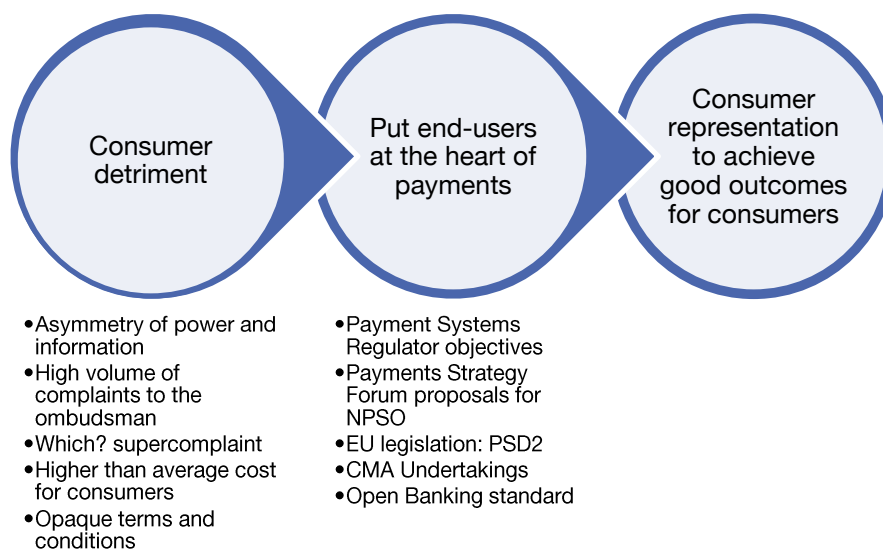
<sup>6</sup> FINANCIAL CONDUCT AUTHORITY. 2016. *Occasional Paper No 17: Access to financial services in the UK* [online] Available from: <https://www.fca.org.uk/publication/occasional-papers/occasional-paper-17.pdf>

<sup>7</sup> CITIZENS ADVICE. 2016. *Consumer detriment: counting the cost of consumer problems*. [online] Available from: [https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Final\\_ConsumerDetrimnt\\_OE.pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Final_ConsumerDetrimnt_OE.pdf); OFFICE OF FAIR TRADING. 2008. *Consumer detriment: assessing the frequency and impact of consumer problems with goods and services* [online] Available from: [http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.oft.gov.uk/shared\\_oftr/reports/consumer\\_protection/oft992.pdf](http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.oft.gov.uk/shared_oftr/reports/consumer_protection/oft992.pdf)

The average financial cost to consumers who experienced problems with the financial services sector was also significantly higher than in most other sectors.<sup>8</sup>

Figure 1 shows consumer detriment as a key driver for increasing consumer representation in the payments sector.

*Figure 1: Drivers for consumer representation in the payments sector*



The payments sector has come under scrutiny over several years and attracted criticism for not listening enough to consumer needs, as discussed further in chapter 2. Consumer representation is therefore vital within the payments sector, to ensure that it functions effectively in the interests of end-users; promotes trust and confidence in the sector; is responsive to consumer needs; and leads to good outcomes for consumers, and thus for the sector as a whole.

### 1.3 Aims of the research

The aims of the research are to: (1) identify ways in which the availability and quality of consumer representation can be improved in the payments sector; and (2) ensure that good consumer outcomes remain at the centre of deliberations about how to develop, deliver and monitor the effectiveness of new products and services.

The primary objective of the research is to build a picture of what good consumer representation should look like and how this might best be achieved, within a changing technology driven landscape. The specific objectives include ascertaining:

1. What people within the sector think consumer representation is, and what it should achieve for the sector;
2. Approaches to consumer representation in different settings and their relative merit;

<sup>8</sup> CITIZENS' ADVICE, *Ibid.*



3. Principles which underpin and contribute to effective consumer representation;
4. Contexts which lend themselves to particular types of consumer representation;
5. The changing technology landscape and what this means for different groups of consumer representatives, their skills and expertise;
6. The relationship between consumer representative bodies and the bodies that they advise or oversee;
7. If there is a need for culture change in the industry and what it means to 'put consumers at the heart' of developments.

### 1.4 Methodology

The research was conducted in four phases during June and July 2017: (1) literature review; (2) interviews and online survey; (3) analysis; and (4) a roundtable event. Further detail about each phase is provided in Appendix 1, the interview schedule is in Appendix 2, and the online survey is in Appendix 3. Information about the research team can be viewed in Appendix 5.

As this research was focused on financial services, the payments sector in particular, it was important to involve consumer representatives with relevant knowledge and Bacs assisted with the provision of names and organisations who had attended a consumer event held at the organisation earlier in 2017. The sample represented key consumer organisations in the UK. Sixteen participants took part in the research: this included twelve interviewees, three online respondents and one additional roundtable participant. Many of the interviewees participated in the roundtable event. Price comparison websites were invited to participate but did not take part. The online survey extended the scope of the research to those unable to participate in interviews but who were able to contribute to the research. The research provided useful insights from representatives with extensive experience of working with a broad range of organisations across financial and other sectors and created a rich picture of representation in financial services and payments which was then compared and contrasted with the literature.

Participants were first asked some general questions about the role of consumer representation, and, where appropriate, their own role in consumer representation. They were then asked for their views on consumer representation with specific reference to CASS, the New Payment System Operator and the Open Banking Implementation Entity. Finally, they were asked about possible performance criteria for consumer representation, and the skills, knowledge and qualities which they thought effective consumer representatives would need.

### 1.5 Report Structure

The report addresses the research objectives in four broad themes:

- the context for consumer representation in the payments sector (chapter 2)
- definition of 'consumer' (chapter 3)
- effective consumer representation (chapter 4)
- facilitating effective consumer representation (chapter 5).

Finally, chapter 6 summarises the conclusions from the research including the future direction to achieve effective consumer representation in the payments sector.



## 2. The context for consumer representation in the payments sector

### 2.1 Introduction

A number of recent developments have focused attention on how the interests of consumers can best be represented in this sector. As the Financial Inclusion Improvement Committee has observed: ‘banking and payments are often people’s first experience of financial services and can offer a gateway to further financial inclusion. It is therefore crucial that payments services meet people’s needs and that they benefit from them.’<sup>9</sup>

Recent and ongoing reforms within the payments sector, often driven by advances in technology, have the potential to bring benefits to consumers, but could bring new and unforeseen risks without careful consideration and consultation. While it is therefore vital that consumers are involved in the development and provision of those services, it is recognised that this journey is unlikely to be easy due to the unfamiliarity of the area to many consumers and their representatives.

This chapter sets the context for the discussion to follow by briefly outlining the rationale for increasing consumer representation in the payments sector and highlighting any existing proposals for consumer representation.

### 2.2 The Payments Strategy Forum and the New Payment System Operator (NPSO)

Significant developments have recently taken place in relation to the wider payments sector as a result of the establishment of the Payments Strategy Forum. Set up by the Payments Systems Regulator, this forum has been unique in bringing together industry and consumer representatives to help shape the future of retail interbank payments, engaging over 645 individuals from 360 organisations in the payments ecosystem to shape and deliver the strategy.<sup>10</sup>

In its final strategy document published in November 2016, the Forum proposed the consolidation of three Payment Service Operators (PSOs): Bacs Payment Schemes Ltd (BPSL), Cheque and Credit Clearing Company Limited (C&CCCL) and the Faster Payments Scheme Ltd (FPSL, under a New Payment System Operator (NPSO)).<sup>11</sup> In order to consider key issues relating to the potential consolidation of the governance of these three payment systems, including how the views of end users and participants are taken into account, the Payment Systems Regulator (PSR) and Bank of England set up the Payment System Operator Delivery Group (PSODG).<sup>12</sup>

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<sup>9</sup> FINANCIAL INCLUSION IMPROVEMENT COMMITTEE. 2015. *Financial Inclusion: Improving the financial health of the nation*. [online] Available from: [http://www.financialinclusioncommission.org.uk/pdfs/fic\\_report\\_2015.pdf](http://www.financialinclusioncommission.org.uk/pdfs/fic_report_2015.pdf) at p26

<sup>10</sup> PAYMENTS STRATEGY FORUM. 2017. *Blueprint for the Future of UK Payments*. [online] Available from: <https://implementation.paymentsforum.uk/sites/default/files/Consultation%20Document.pdf>

<sup>11</sup> PAYMENTS STRATEGY FORUM. 2016A *Payments Strategy for the 21<sup>st</sup> Century: Putting the needs of users first*. [online] Available from:

[https://implementation.paymentsforum.uk/sites/default/files/documents/A%20Payments%20Strategy%20for%20the%2021st%20Century%20-%20Putting%20the%20needs%20of%20users%20first\\_0.pdf](https://implementation.paymentsforum.uk/sites/default/files/documents/A%20Payments%20Strategy%20for%20the%2021st%20Century%20-%20Putting%20the%20needs%20of%20users%20first_0.pdf)

<sup>12</sup> <https://www.psr.org.uk/psr-focus/payment-system-operator-delivery-group>

The PSODG recommended that a separate End-Users Council should be set up which can feed its views into the NPSO Board.<sup>13</sup> End-Users have been defined as including anyone who initiates or receives payments including individual consumers, small businesses, charities, corporations, NGOs and government departments. Other proposals include that the Chair should be independent and that reaching consensus would not be a requirement for the End-User and Participants Councils. The PSODG's proposals were accepted in July 2017.<sup>14</sup>

Alongside its responsibilities for maintaining secure, stable and robust payment systems, the NPSO will be responsible for the final delivery of the other Payment Strategy Forum proposals. These include work to reduce fraud as well as the introduction of new, digitally-based, consumer propositions like 'confirmation of payee' and 'request to pay'.

## 2.3 Open Banking

Open Banking can be used as a general term to describe two pieces of legislation: the Competition and Markets Authority's (CMA's) 'Open Banking remedy' and the European Payment Services Directive 2 (PSD2)<sup>15</sup>. Both pieces of legislation aim to make the playing field more level for payment service providers and improve competition to drive better outcomes for consumers. The CMA's remedy is focused on the UK's current account market but PSD2 focuses on improving the European single market for all types of payment accounts.

Following its investigation into the retail banking market, the CMA found that older and larger banks did not have to compete hard enough for customers' business, while smaller and newer banks found it difficult to grow, with the result that many customers are paying more than they should for their banking services and are not benefiting from new products and services.<sup>16</sup> The package of reforms recommended by the CMA to address this included the implementation of Open Banking, which aims to enable personal customers and small businesses to share their data securely with other account providers and with third parties. These new data sharing capabilities have been designed to allow consumers to compare products based on their own specific requirements and to more effectively manage their finances independently from their current account provider, should they so desire.

The Open Banking Implementation Entity (OBIE) was set up to deliver Open Banking.<sup>17</sup> OBIE is working with the nine largest current account providers (the 'CMA9'), as well as challenger banks, consumer groups and others, to develop standardised product and reference data and secure access to specific current accounts to read transaction data and initiate payments via a standardised Application Programming Interface (API). To date, OBIE has delivered a standard for Open Banking in the UK, while the nine providers have each implemented an API which allows

<sup>13</sup> PAYMENT SYSTEM OPERATOR GROUP. 2017. *New Payment System Operator: Payment System Operator Delivery Group Final Report* [online] Available from: <https://www.psr.org.uk/sites/default/files/media/PDF/PSODG-Report-2017.pdf>

<sup>14</sup> PAYMENT SYSTEMS REGULATOR. 2017. *PSR responds to Competition and Markets Authority's approval to create New Payments Systems Operator* [online] Available from: <https://www.psr.org.uk/psr-publications/news-announcements/cma-approves-nps>

<sup>15</sup> REYNOLDS, F., 2017. *Open Banking: A consumer perspective*. [online] Available from: <https://www.home.barclays/content/dam/barclayspublic/docs/Citizenship/Research/Open%20Banking%20A%20Consumer%20Perspective%20Faith%20Reynolds%20January%202017.pdf>

<sup>16</sup> COMPETITION AND MARKETS AUTHORITY. 2016. *Retail Banking Market Investigation: Final Report*. [online] Available from: <https://assets.publishing.service.gov.uk/media/57ac9667e5274a0f6c00007a/retail-banking-market-investigation-full-final-report.pdf>

<sup>17</sup> <https://www.openbanking.org.uk/>

access to their standardised product information. Work to deliver Open Banking is ongoing, and is due to be fully launched in January 2018.

## 2.4 The Current Account Switch Service (CASS)

CASS was launched in 2013 with the aim of increasing competition in the UK current account market by enabling customers to simply and reliably switch their current account. Since the launch of the service, over 3.5 million customers have used the service to move providers.<sup>18</sup> Despite this, during its investigation into the retail banking market, the CMA found evidence of a variety of barriers preventing both individual and business customers from switching bank accounts. While noting that CASS had made a positive difference to the switching process, and was generally working well, the CMA reported that many customers either did not know about, or did not have confidence in CASS.<sup>19</sup> The CMA therefore set out a number of proposed measures aimed at increasing consumer confidence in the process and reducing barriers to switching. These included reforming CASS' governance to increase transparency and encourage the development and improvement of the service in the interests of consumers. In particular, the CMA sought undertakings from Bacs to involve representatives of consumer groups, SMEs and intermediaries – like price comparison websites – in decision-making by CASS.<sup>20</sup> Bacs gave the required undertakings to the CMA, including those relating to CASS, which were formally accepted by the CMA in January 2017.<sup>21</sup>

## 2.5 The changing landscape

A key issue in financial services is how to ensure ongoing effective consumer representation as digitalisation increases and technology creates new opportunities as well as threats.

Research with consumer groups suggests that the introduction of new digital comparison tools, together with the aggregation of consumers' financial data in one place, may benefit consumers by making it easier for them to compare complex product pricing.<sup>22</sup> Other potential benefits include more personalised services, making it easier and more convenient for consumers to manage their money effectively. The research noted that payments data is very high quality which, when combined with other data sets, creates endless possibilities for innovation. The stated objectives of the Payments Strategy Forum initiatives are to give consumers more control and trust in their payments.<sup>23</sup>

To reap these benefits, consumers and SMEs will need to know how to make best use of those services. Research into Open Banking has highlighted potential risks for consumers, such as possible loss of control of their money; loss of privacy or security; power imbalances; a risk of

<sup>18</sup>Bacs. 2016. *Annual Report* [online] Available

from [https://www.bacs.co.uk/DocumentLibrary/Current\\_Account\\_Switch\\_Service\\_annual\\_report.pdf](https://www.bacs.co.uk/DocumentLibrary/Current_Account_Switch_Service_annual_report.pdf) p4

<sup>19</sup> COMPETITION AND MARKETS AUTHORITY. 2016. *Retail Banking Market Investigation: Final Report*. [online]

Available from: <https://assets.publishing.service.gov.uk/media/57ac9667e5274a0f6c00007a/retail-banking-market-investigation-full-final-report.pdf>, at paragraph 14.14

<sup>20</sup>COMPETITION AND MARKETS AUTHORITY, *ibid*, at paragraph 183

<sup>21</sup>COMPETITION AND MARKETS AUTHORITY. 2017. *Retail banking market investigation current account switch service remedies* [online] Available from:

<https://assets.publishing.service.gov.uk/media/587ded7eed915d0aeb00015d/retail-banking-investigation-final-bacs-undertakings.pdf>

<sup>22</sup> For a discussion of the issues in this paragraph see REYNOLDS, F. 2017. *Open Banking: A Consumer Perspective* <https://www.home.barclays/content/dam/barclayspublic/docs/Citizenship/Research/Open%20Banking%20A%20Consumer%20Perspective%20Faith%20Reynolds%20January%202017.pdf>

<sup>23</sup> PAYMENTS STRATEGY FORUM. 2017. *Blueprint for the Future of UK Payments*. [online] Available from: <https://implementation.paymentsforum.uk/sites/default/files/Consultation%20Document.pdf>

sharp practices, and possible digital and financial exclusion. There is therefore a need to protect consumers in the implementation of these initiatives, paying specific attention to more vulnerable groups such as those on low incomes and young people. The research also recognised the importance of building trust and of involving consumer representatives in helping consumers understand the implications of consent and data sharing. It recommended consumer groups engage and advocate for their consumers.<sup>24</sup>

Some of these risks are identified by the providers themselves. For instance, the Open Banking Implementation Entity website states that it will build APIs and standards on a ‘*security first*’ basis and put the trust of the customer at the heart of its planning and production.<sup>25</sup> The Payments Strategy Forum has also committed to further defining the consumer protection model for its proposals.<sup>26</sup>

The findings of this report, while largely applicable to the wider financial services sector, are focused on possible consumer representation arrangements for the NPSO, the Open Banking Implementation Entity and CASS.

The next chapter defines the term ‘consumer’ in the context of this report.

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<sup>24</sup> REYNOLDS, F, *ibid*

<sup>25</sup> <https://www.openbanking.org.uk/about/the-initiative-open-banking/>

BLUEPRINT FOR THE FUTURE OF UK PAYMENTS. 2017.

<https://implementation.paymentsforum.uk/sites/default/files/Consultation%20Document.pdf>

## Consumer-centric board culture is crucial

“

*It is imperative that boards stop considering their needs as separate from consumer needs; rather, they should recognise that consumer needs are the board and business needs*

roundtable participant

### 3. Definition of ‘consumer’

#### 3.1 Who is a consumer?

This chapter considers how the definition of ‘consumer’ is discussed in the literature and by interviewees. The literature describes a consumer as anyone who buys or uses goods or services, either in the private or public sector.<sup>27</sup> It can be noted that there is no such thing as ‘the consumer’, or a single consumer interest. Consumers are diverse and have different experiences, attitudes and needs, which can vary depending on the particular market in which they are operating and their resilience to withstand detriment that may occur in that market. It is also possible that different groups of consumers may have competing interests. Obtaining the views of representative groups can be particularly important in sectors where it is difficult to obtain a view of consumers, where long term interests make it difficult to identify the public interest, and where the consumer interest is particularly diverse<sup>28</sup> including those who are vulnerable or disadvantaged.<sup>29</sup>

There is a question as to whether small or micro-businesses, which may have similar or differing interests to those of individual consumers, should be viewed as ‘consumers’. In recent years, there has been a general shift towards recognising small or micro-businesses as consumers.<sup>30</sup> There is not always a clear distinction between the purchase of goods and services for personal and business use<sup>31</sup>, particularly given the increase in homeworking.

Among interviewees there was a consensus that many of the issues for consumers and small/micro (less than ten employees) businesses are similar.

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*I think in terms of consumers and micro-businesses, or the very smallest businesses, there’s often a similarity of needs and wants. (consumer expert 1)*

#### 3.2 SMEs and price comparison websites/other third parties

However, interviewees did have reservations about whether a single representative would be able to cover both perspectives. For example, one consumer organisation admitted that they had

<sup>27</sup>SCOTTISH CONSUMER COUNCIL., 2007. *Consumer: what’s in a name. Why it can be helpful to think of people as consumers*. [online] Available from:

[http://webarchive.nationalarchives.gov.uk/20090724135711/http://scotcons.demonweb.co.uk/publications/book\\_guide/Consumer\\_what's%20in%20a%20name.pdf](http://webarchive.nationalarchives.gov.uk/20090724135711/http://scotcons.demonweb.co.uk/publications/book_guide/Consumer_what's%20in%20a%20name.pdf)

<sup>28</sup> *Ibid.*

<sup>29</sup>FINANCIAL CONDUCT AUTHORITY., 2015. *Consumer vulnerability, Occasional paper No.8*. [online] Available from: <https://www.fca.org.uk/publication/occasional-papers/occasional-paper-8.pdf>

<sup>30</sup> For example, micro enterprises (an EU term covering smaller businesses) can complain to the Financial Ombudsman Service as long as they have an annual turnover of *up to* two million euros and *fewer than* ten employees [http://www.financial-ombudsman.org.uk/faq/answers/complaints\\_a9.html](http://www.financial-ombudsman.org.uk/faq/answers/complaints_a9.html). The EU Directive on Consumer Rights (2011/83/EU) defines a consumer as ‘any natural person who is acting for purposes which are outside his trade, business, craft or profession’, but states in its preamble that ‘where the contract is concluded for purposes partly within and partly outside the person’s trade and the trade purpose is so limited as not to be predominant in the overall context of the contract, that person should also be considered as a consumer’.

<sup>31</sup> CONSUMERS INTERNATIONAL.2013. *The State of Consumer Protection Around the World*, London: Consumers International.



limited exposure to SMEs and there was a general feeling among those interviewed that, given a choice, it would be better for SMEs to have separate representation.

“

*It's very hard to find a consumer representative, who actually understands the nature of small businesses, and I think that it is preferable, if possible, to have separate representatives. (consumer expert 10)*

The CMA undertaking to CASS requires the appointment of non-bank representatives, which could include price comparison websites or other third parties. There was a strong consensus that the interests of most price comparison websites and intermediaries were not well aligned with those of consumers, and that a single representative covering these, as well as individual and business consumers, would be inappropriate.

“

*The thing about intermediaries is they like complexity. They like people switching between lots of different products. They like everything being really complicated because then people need to use their comparison sites. And then these people get commission from recommending products. So that's why there's always a big conflict of interest between intermediaries and consumers. (consumer expert 11)*

### DEFINITION

In the context of this report, we define a consumer as ‘*anyone, whether they are an individual or an SME, that uses (or would like to use) the service provided*’.

In adopting this definition, we are including ‘potential consumers’ who do not have access to a service or have not yet chosen to use it, and excluding price comparison websites, large corporates and government departments.

In the next chapter on effective consumer representation, we will draw on a range of frameworks including internationally recognised consumer principles which enable consumer representatives to represent the consumer interest in the payments sector.

## 4. Effective consumer representation

In chapter 3, we recognised the diversity of consumers and that no single organisation or person can adequately represent all consumers' needs. Here we explain the principles which underpin and contribute to good consumer outcomes and discuss effective consumer representation and the relationship between consumer representation and consumer engagement.

### 4.1 Consumer principles

In terms of the underlying principles which inform effective consumer representation, a number of different principles could be identified from the literature. The concept of consumer representation is not new. In 1962, the US President John F. Kennedy gave a key speech to Congress in which he set out his vision for protecting the consumer interest. It was the first time that any politician had set out rights for consumers: (1) the right to safety; (2) the right to be informed; (3) the right to choose; and (4) the right to be heard, now known as representation. From the perspective of consumer organisations who act as consumer representatives, the principles first set out by President Kennedy may be used to guide their views<sup>32</sup> promoting trust, consumer spending and stimulating the economy. These rights have since been developed into eight well established consumer principles that are used by many consumer organisations such as Consumers International, Citizens' Advice Scotland and Which? to inform their work with organisations.<sup>33</sup>

*Table 1: Consumer Principles*

Consumer Principle	Questions
<b>Access</b>	Can people get the goods and services they need or want?
<b>Choice</b>	Is there any? Can consumers affect the way the goods and services are provided through their own choice?
<b>Consumer influence and representation</b>	Do consumers have a say in how goods or services are provided?
<b>Information and education</b>	Is it available, accurate and useful? What knowledge and skills are needed to make informed, confident choices about goods and services? Do organisations operate transparently?
<b>Quality</b>	What are the key quality risks - technical, service, ethics?
<b>Redress</b>	If things go wrong, is there a system for putting them right?
<b>Safety</b>	Are the goods or services dangerous to health or welfare? Are standards as high as they can reasonably be?
<b>Fairness</b>	Are consumers subject to arbitrary discrimination for reasons unconnected with their characteristics as consumers?

<sup>32</sup> LAW AND LIFE BLOG. 2013. *President John F. Kennedy's contributions on consumer rights*. [online]. Available from: <https://oneallawoffice.wordpress.com/2013/11/21/president-john-f-kennedys-contributions-on-consumer-rights/>

<sup>33</sup> THE UK REGULATORS NETWORK. 2017. *Consumer engagement in regulatory decisions: a guide to how UK regulators involve consumers, hear their views and take their interests into account*. [online]. Available from: [http://www.ukrn.org.uk/wp-content/uploads/2017/04/UKRN-Consumer\\_Engagement\\_WEB.pdf](http://www.ukrn.org.uk/wp-content/uploads/2017/04/UKRN-Consumer_Engagement_WEB.pdf)



Using the consumer principles as a tool to assess the consumer interest at the earliest possible opportunity will result in a stronger consumer focus in policy, strategy and operational planning.<sup>34</sup> The Scottish Legal Complaints Commission, for example, has used advice from its Consumer Panel on key consumer principles in its publication 'Reimagine Regulation'<sup>35</sup> setting out legislative change priorities for legal services complaints. Organisations should be able to show where they have listened effectively to the consumer voice and made changes; similarly they should be transparent when views are rejected, giving clear reasons why the input has not been addressed.

#### 4.2 Principles which underpin and contribute to effective consumer representation

The literature review, confirmed by interviews with consumer representatives themselves, exposed some key principles that underpin effective consumer representation: the culture of the organisation, the individual consumer representative(s) and the processes that enable the consumer representative(s) to undertake their role. These are reflected in Figure 2.

*Figure 2: Principles underpinning and contributing to effective consumer representation*



##### *Culture*

Where an organisation's culture is open, receptive and serious about putting the consumer at the heart of its debate, consumer representation can have an impact. This means seeing consumers not simply as another group of stakeholders but as the success metric of an organisation. Good consumer outcomes should be synonymous with the organisation's success. As one roundtable participant commented:

<sup>34</sup>SCOTTISH LEGAL COMPLAINTS COMMISSION. 2017. *Reimagine Regulation: priorities for a consultation on legal services*. [online]. Available from: [https://www.scottishlegalcomplaints.org.uk/media/65853/1\\_reimagine\\_regulation\\_-\\_slcc\\_priorities\\_for\\_a\\_consultation\\_on\\_legal\\_services\\_regulation\\_v1.00.pdf](https://www.scottishlegalcomplaints.org.uk/media/65853/1_reimagine_regulation_-_slcc_priorities_for_a_consultation_on_legal_services_regulation_v1.00.pdf).

See also LEGAL SERVICES CONSUMER PANEL. 2014. *The consumer interest: using consumer principles* [online] Available from: <http://www.legalservicesconsumerpanel.org.uk/ourwork/ConsumerEngagement/documents/UsingConsumerPrinciples2014.pdf>

<sup>35</sup> SCOTTISH LEGAL COMPLAINTS COMMISSION, *ibid*.

“

*It is imperative that boards stop considering their needs as separate from consumer needs; rather, they should recognise that consumer needs are the board and business needs. (roundtable participant)*

Within the context of governance, this means ensuring that all board representatives are familiar with a variety of consumer needs, experiences and troubles. It requires transparency and openness. Organisations should be able to show where they have listened effectively to the consumer voice and made changes; similarly, they should be transparent when views are rejected, giving clear reasons why the input has not been addressed. Holding open board meetings, publishing meeting minutes, consumer research or the outcomes of key debates by way of dedicated internet pages can help create this transparency.

The ability to reflect a diversity of consumer interests also encourages organisations to be more responsive to consumers.<sup>36</sup>

“

*.....so I think if they're intending to bring in different voices with different interests, then they're probably going to end up with quite a holistic view on whatever policy is being developed. (consumer expert 8)*

Consumer representation is least effective when it is a 'tick-box' exercise. Effective consumer representation means 'being heard'. This point is supported by research from Australia which highlighted that 'tokenism erodes good will'.<sup>37</sup>

Consumer experts reiterated this view at the roundtable where much of the discussion focused on the importance of board culture and the need to change that culture. The discussion also highlighted the importance of embedding consumer engagement within all parts of an organisation rather than seeing it as a 'bolt on'.

“

*Don't let consumer issues become a 'ghetto'*  
(roundtable participant)

<sup>36</sup> HEIMS, E. and LODGE, M. 2016. *Customer engagement: towards a new era in economic regulation* in LODGE, M. (ed) *Customer Engagement in regulation*. Centre for Analysis of Risk and Regulation (CARR) Discussion Paper No 82 [online] Available from: <http://www.lse.ac.uk/accounting/CARR/pdf/DPs/DP-82.pdf> pp 1-7

<sup>37</sup> CONSUMER UTILITIES ADVOCACY CENTRE. 2013. *Meaningful and genuine engagement: perspectives from consumer advocates*. [online]. Available from: [http://www.energynetworks.com.au/sites/default/files/4\\_cuac\\_consumer\\_engagement\\_report\\_2013.pdf](http://www.energynetworks.com.au/sites/default/files/4_cuac_consumer_engagement_report_2013.pdf) p18

The culture of the organisation sets the tone for how effective consumer representation is and how effectively the individual consumer representative(s) can influence the outcomes.

### *People*

Research for Canada's Office of Consumer Affairs suggests that principles for effective consumer representation related to the person include competence, independence, representativeness and accountability.<sup>38</sup>

Consumer Focus identified a number of capabilities to ensure effective consumer policy and representation.<sup>39</sup> Table 2 illustrates the complexity of the role of consumer representatives, and the considerable range of capabilities required by those taking these responsibilities.

*Table 2: Capabilities for effective consumer representation*

<ul style="list-style-type: none"> <li>• Access to high quality research, market intelligence and other forms of evidence, providing insight into the consumer experience of markets</li> </ul>
<ul style="list-style-type: none"> <li>• Understanding that different consumers' experiences vary as a result of circumstances and needs</li> </ul>
<ul style="list-style-type: none"> <li>• The ability to identify current, emerging and likely future sources of detriment</li> </ul>
<ul style="list-style-type: none"> <li>• The ability to respond flexibly and rapidly to any new problems that arise</li> </ul>
<ul style="list-style-type: none"> <li>• The intellectual framework to analyse evidence and produce reasoned perspectives, for example balancing short-term and long-term consumer interests</li> </ul>
<ul style="list-style-type: none"> <li>• Understanding of technical issues relating to products and services and how social, economic and technological changes are affecting markets</li> </ul>
<ul style="list-style-type: none"> <li>• The ability to learn from experience in different sectors</li> </ul>
<ul style="list-style-type: none"> <li>• An understanding of business and consumer behaviour and of the regulatory toolkit</li> </ul>
<ul style="list-style-type: none"> <li>• The ability to put views persuasively, build effective relationships, challenge received wisdom and achieve influence</li> </ul>

Similar aspects were identified by our interviewees: access to good quality evidence to help them build their case; relationship building with stakeholders; involvement at an early stage; the ability to represent diverse consumer interests; access to financial support; and knowledge, skills and expertise.

Our interviewees valued their involvement in consumer representation, and commented that it was a unique role and provided a 'reality check' (consumer expert 1) to a firm. Consumer representation was seen as aiming to ensure that when key decisions are being made, the consumer perspective is brought to bear.

<sup>38</sup>UNION DES CONSOMMATEURS. 20 <http://uniondesconsommateurs.ca/docu/ConsuRepCriteriasExSum.pdf>

<sup>39</sup>CONSUMER FOCUS. 2011. *Regulated industries and consumers*. [online]. Available from: <http://webarchive.nationalarchives.gov.uk/20110311064727/http://www.consumerfocus.org.uk/files/2011/03/Regulated-industries-and-consumers.pdf>

“

*I think it's a unique role, I think very often we're the only ones round the table actually thinking about any potential impacts or benefits for consumers... the only ones sitting interpreting what we're hearing into behaviours that could positively or negatively impact consumers. (consumer expert 8)*

But consumer representatives must be supported by the appropriate processes to be effective.

### *Process*

Processes for good consumer representation extend to transparency of criteria for selection, responsible appointment processes, the application of rules of good governance, financial resources, training activities, and the involvement of consumer organisations. We address the practicalities of these issues in more depth in Chapter 5.

Other international guidance recommends that when considering consumer engagement organisations should provide for participation in the planning stage; provide resources to enable and encourage participation; guide representatives and provide support on technical issues; provide appropriate support for representatives with disabilities; communicate in a timely way in relation to meetings and provide sufficient time to review documents thoroughly.<sup>40</sup>

Good practice examples identified in the literature included providing support in terms of building capacity for complex issues, providing financial incentives emphasising that it is the quality of participation that counts not the quantity.<sup>41</sup> This approach was seen to be an indicator of a more consumer-focused culture.

“

*...looking at different methodologies like workshops, telephone conference calls, taking somebody out for a cup of tea and a bun, and explaining it to them face to face in a language that they can understand, because they might not be an expert in clause 36 of the handbook on regulation... that is a real commitment. (consumer expert 1)*

Consumer representation requires consumer groups and advocates to commit time to areas with which they may not be familiar. It also requires them to make trade-offs about how they engage and what they prioritise. This can mean that in sectors where the immediate relationship to the consumer is not self-evident, consumer representatives need help to make the connection. Payments is just such a sector.

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<sup>40</sup>ISO. 2003. *The consumer and standards*. [online]. Available from:

<https://www.iso.org/files/live/sites/isoorg/files/archive/pdf/en/standardsandconsumer.pdf>

<sup>41</sup> CONSUMER UTILITIES ADVOCACY CENTRE. 2012. *Meaningful and genuine engagement: perspectives from consumer advocates*. [Online]. Available from:

[http://www.energynetworks.com.au/sites/default/files/4\\_cuac\\_consumer\\_engagement\\_report\\_2013.pdf](http://www.energynetworks.com.au/sites/default/files/4_cuac_consumer_engagement_report_2013.pdf)

Building on the principles of effective consumer representation, the next section discusses the relationship between consumer representation and the broader concept of consumer engagement, looking at how ‘culture’, ‘people’ and ‘processes’ work together.

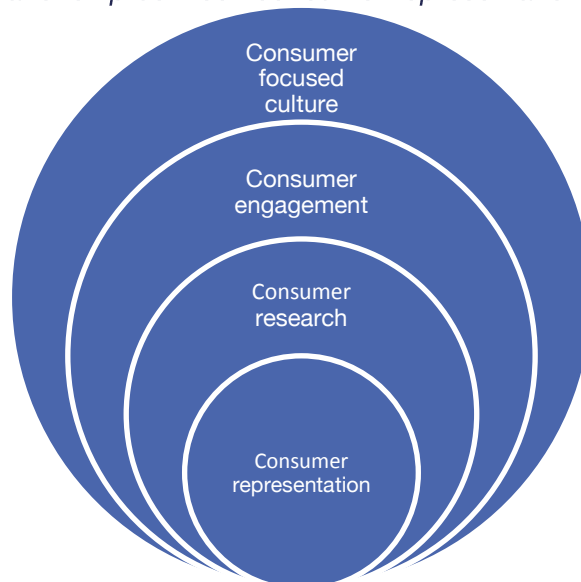
#### 4.3 The relationship between ‘consumer representation’ and ‘consumer engagement’

The terms ‘consumer representation’ and ‘consumer engagement’ are often used interchangeably, but they are not the same. While they are both forms of consumer involvement, consumer engagement can be seen as broader than and encompassing ‘consumer representation’. Consumer representation therefore may be viewed as part of an organisation’s wider engagement strategy to take account of the interests of consumers. The literature review highlighted that although there is relatively little recent literature on consumer representation, a significant literature on ‘consumer engagement’ has emerged.<sup>42</sup> When considering what is meant by the term ‘consumer representative’, the Commonwealth Consumer Affairs Advisory Council provides a useful summary which identifies the representative within the wider consumer context:

‘The underlying principle in all definitions, is that a consumer representative should bring positive benefits to the position, including understanding of consumer issues and viewpoints, and have the confidence of the consumer movement.’<sup>43</sup>

Figure 3 illustrates the relationship between consumer representation and consumer engagement within a consumer-focused culture.

*Figure 3: Relationship between consumer representation and consumer engagement*



<sup>42</sup> See for example the Centre for Analysis of Risk and Regulation Discussion Paper on Customer Engagement in Regulation (2016), Essential Services Access Network (2016) conference papers on How Can the Consumer Voice be Better Heard in the Regulation of Essential Services. Perceptive Insight (2016) Literature Review and Final Consumer (Engagement report for NIE, Sustainability First (2016) report on Consumer, Citizen and Stakeholder Engagement and Capacity Building in the Energy and Water Sectors and UKRN (2014) discussion paper on Involving Consumers in the Development of Regulatory Policy and its 2017 report on Consumer Engagement in Regulatory Decisions.

<sup>43</sup> COMMONWEALTH CONSUMER AFFAIRS ADVISORY COUNCIL. 2005. *Principles for the appointment of consumer representatives: a process for governments and industry*. [online] Available from: [http://archive.treasury.gov.au/documents/994/PDF/consumer\\_reps.pdf](http://archive.treasury.gov.au/documents/994/PDF/consumer_reps.pdf) p4

While consumer representation can form an effective and useful tool for making the consumer voice heard, it has its limitations and needs supplementing with organisation-wide engagement strategies.

According to Sustainability First, as well as direct engagement with consumers themselves (or ‘real people’ as they call them), engagement comes in many forms including engagement of consumer, citizen and stakeholder representatives.<sup>44</sup> Sustainability First has set out a decision-making framework for organisations and regulators to inform engagement including consumer representation to address long term decision making in the energy and water sectors. It includes a series of questions around objectives, inclusivity, tailored services and transparency which could facilitate the development of consumer representation in other sectors.<sup>45</sup>

Our research interviews explored how consumer representation and engagement can best be achieved, and a number of steps were suggested to help organisations facilitate this approach. This included organisations taking a proactive approach to engaging consumer representatives, including outreach work to target hard to reach groups and those affected in niche areas. Examples of useful models for a strategic approach to consumer engagement are outlined in Appendix 4. It was suggested that consumer representatives need to consult effectively. Public reporting of consumer input was also viewed as important. Consumer experts expressed the view that without consumer representation, consumer engagement is less likely.

“

*If you don't have any consumer representation, you very rarely get anybody with any serious intent, as far as consumer engagement is concerned.*  
(consumer expert 10)

During the roundtable discussion, participants recognised the ‘catalytic’ impact consumer representatives could have in driving wider engagement, spurring on the organisation, leading the wider consumer engagement strategy and ensuring the needs of more niche groups are heard. Others suggested that part of representation involved consumer representatives becoming ambassadors, reaching out to their own networks to develop the engagement strategy. But there was also a cautionary view expressed at the roundtable event.

“

*...the consumer representative should not be involved in broader engagement activities of the company as it is too much of an ask. However, there is a definite role for the consumer representative in designing the stakeholder engagement strategy.* (roundtable participant)

<sup>44</sup>SUSTAINABILITY FIRST. 2016. *Consumer, citizen and stakeholder engagement capacity building in the energy and water sectors. Is the long-term public interest represented?* [online]. Available from: <http://www.sustainabilityfirst.org.uk/images/publications/new-pin/New-Pin - Engagement Discussion Paper - FINAL - November 2016.compressed.pdf> p56

<sup>45</sup> SUSTAINABILITY FIRST. 2016., *ibid.*



Consumer representatives can help drive the engagement strategy but the company must take responsibility for embedding it within its operations. This requires a consumer-focused culture. The UK Regulators Network have summarised the challenges for consumer engagement and how to address them in a recent report<sup>46</sup> as shown in Table 3.

*Table 3: Common challenges for consumer engagement across all sectors*

Form	<ul style="list-style-type: none"> <li>Identifying the right form of engagement for the challenge faced</li> <li>'Framing' the engagement activity and questions in the most appropriate way</li> </ul>
Diversity/full range of views	<ul style="list-style-type: none"> <li>Recognising and considering the full range of consumer views over time – across age, socio-economic, equality and regional groups</li> <li>Reaching out beyond well-known expert groups and individuals to bring in fresh voices</li> </ul>
Timing	<ul style="list-style-type: none"> <li>Building in time for consumer engagement within policy making and decisions</li> <li>Getting it at the right stages of the process, so engagement and input can influence and add value and is not a 'rubber stamp'</li> </ul>
Evidencing impact	<ul style="list-style-type: none"> <li>Demonstrating the 'golden thread' of how consumer engagement in different areas is 'joined up' and has influenced plans and decisions</li> </ul>
Resource	<ul style="list-style-type: none"> <li>Working with resource constraints within regulators and consumer organisations</li> <li>Considering cost of consumer engagement, how it is paid for and the governance around this to avoid consumer 'capture'</li> </ul>
Complexity of content/specialist knowledge	<ul style="list-style-type: none"> <li>Consumer representatives having sufficient expertise and technical understanding</li> <li>Articulating complex and technical issues in accessible forms to enable input</li> <li>Trading-off different consumers' priorities, especially where these differ by geography, income or age groupings</li> <li>Taking account of governments'/taxpayers' priorities, including where they pay towards the cost of services (for example, in rail)</li> </ul>
Outcomes	<ul style="list-style-type: none"> <li>Measuring a 'good' outcome: quality, value for money, sustainable, 'fair' across different consumer groups and over time</li> <li>Measuring an individual company's contribution to 'good' outcomes (compared with other companies or wider circumstances)</li> </ul>

Successfully addressing the challenges requires an organisational strategy for consumer engagement which is resourced and enables the company to measure its contribution to good outcomes. The challenges highlight again the need to ensure the role of the consumer representative is part of a wider strategy which is informed by high quality research drawn from appropriate stakeholders, facilitated by a consumer-focused culture. Chapter 5 further discusses some of the challenges of consumer engagement identified by the UK Regulators' Network, and considers how good consumer representation can be facilitated.

<sup>46</sup> UK REGULATORS NETWORK. 2017. *Consumer engagement in regulatory decisions*: [online] Available from: [http://www.ukrn.org.uk/wp-content/uploads/2017/04/UKRN-Consumer\\_Engagement\\_WEB.pdf](http://www.ukrn.org.uk/wp-content/uploads/2017/04/UKRN-Consumer_Engagement_WEB.pdf)

## 5. Facilitating effective consumer representation

It was noted in the interviews that while consumer representation was ‘essential’, it is ‘difficult to get right’ (consumer expert 3). Having considered the principles that underpin good consumer representation, this chapter explores approaches to delivering consumer representation: the objectives, structures and processes, which can help to ‘get it right’.

This chapter makes particular reference to methods of consumer representation that have been suggested for the payments sector. For instance, the Open Banking Implementation Entity has individual consumer and SME representatives on its steering group; further to its CMA undertakings, CASS has introduced non-bank representation to its governance; and the PSODG recommended consumer-focused skills on the board and an end-user advisory council to advise the NPSO.

It is important to note that the processes which facilitate consumer representation can only work best within a culture that is receptive and open to consumer input. Likewise having the right culture is likely to lead to a desire to invest in the processes of good consumer representation and the people that act as consumer representatives. It is the dynamic of culture, people and process that makes consumer representation effective.

### 5.1 Objectives for consumer representation

Before any kind of structure is designed, it is important that the objectives for engagement are clear and articulated. This helps ‘frame’ the consumer representative role. The International Association for Public Participation depicts a spectrum for public engagement which provides a helpful template for firms and consumer representatives to agree goals for working together. This spectrum, summarised in Table 4, includes approaches to informing participants to strengthen their understanding of the problems; consulting the public to obtain feedback; involving participants to ensure that public concerns and aspirations are consistently understood and considered; collaborating with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution; and in the final stage to empowering participants by placing the decision in the hands of the public. This spectrum infers involvement of consumer representatives at different points during the process and the need to plan in sufficient time to enable effective engagement.

Building on the principles underpinning effective consumer representation and the capabilities for these roles, discussed in Chapter 4, the goals for consumer representation in the payments sector should include the ‘involve’ and ‘collaborate’ parts of the spectrum to ensure consumer views are both well understood and clearly influence decision-making, finding appropriate solutions. One of our interviewees commented on the importance of involving stakeholders throughout the UK:

“

*...they should be doing roadshows across Scotland for the sector to understand the needs of the end users. (consumer expert 4)*



Table 4: Public participation spectrum<sup>47</sup>

	INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
Public participation goal	To provide the public with balanced and objective information to assist them in understanding the problem, alternatives and/or solutions	To obtain public feedback on analysis, alternatives and/or decisions	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered	To partner with the public in each aspect of the decision, including the development of alternatives and the identification of the preferred solution	To place final decision-making in the hands of the public
Promise to the public	We will keep you informed	We will keep you informed, listen to and acknowledge concerns and provide feedback on how public input influenced the decision	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision	We will look to you for direct advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible	We will implement on what you decide

## 5.2 Structures for consumer representation

The literature review and the interviews highlighted that appointing consumer representatives either as an individual on a board or to some form of collective consumer forum were the dominant models (see Figure 4). These reflect the governance models for CASS, OBIE and the NPSO. Another model exposed by the literature was ad hoc forms of consumer consultation such as those seeking input on specific issues by holding, for example, roundtable events or focus groups.

A Business, Energy and Industrial Strategy (BEIS) departmental green paper recently sought views on how to strengthen provisions requiring the interests of employees, customers and wider stakeholders to be taken into account at board level in large UK companies<sup>48</sup>. It set out a number of different models including advisory panels and individual representatives on boards.

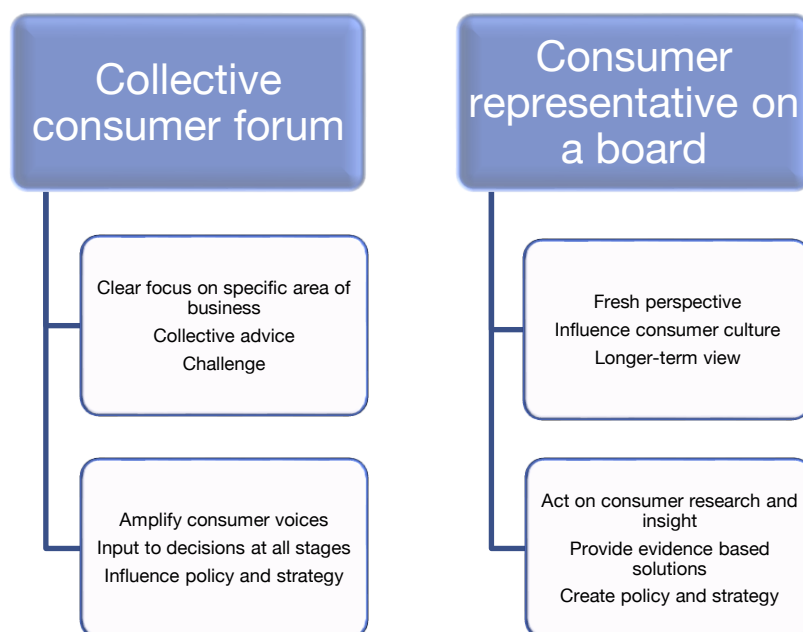
IAP2. 2017. IAP2's Public Participation Spectrum [online] Available from:

<sup>47</sup> [https://c.yimcdn.com/sites/www.iap2.org/resource/resmgr/foundations\\_course/IAP2\\_P2\\_Spectrum\\_FINAL.pdf](https://c.yimcdn.com/sites/www.iap2.org/resource/resmgr/foundations_course/IAP2_P2_Spectrum_FINAL.pdf)

<sup>48</sup> DEPARTMENT OF BUSINESS, ENERGY AND INDUSTRY. 2016. *Corporate Governance*. [online]. Available from: <https://www.gov.uk/government/consultations/corporate-governance-reform>

Similarly, in the regulatory sector, a UKRN report has recently set out a framework for consumer engagement which observes broadly three forms of consumer representation/engagement<sup>49</sup>: consumer interest groups/bodies outside the regulator; advisory panels; and groups within the regulator (e.g. Financial Services Consumer Panel); and/or through the regulated company itself<sup>50</sup>. Both the UKRN framework and the BEIS consultation provide useful recent thinking about current models of consumer representation.

Figure 4: Models for effective consumer representation



Alternative structures have emerged in different sectors, and the general consensus in the literature is that no one approach is better than others and that where different models have emerged this was due to good reason<sup>51</sup>. At the roundtable, consumer experts suggested that what was central to successful representation was a consumer-focused culture.

The specific strengths and weaknesses of the group forum model and the individual consumer representation model are further explored below.

### 5.3 Advisory panels, councils and group forum models

Many government departments, regulatory bodies, ombudsman organisations and businesses have some form of consultative committee(s) that provide a forum where consumer issues can be discussed<sup>52</sup>. For example, the Financial Services Consumer Panel (FSCP), an independent statutory body established to represent the interests of consumers in relation to the regulation of

<sup>49</sup> UK REGULATORS NETWORK. 2017. *Consumer engagement in regulatory decisions*: [online] Available from: [http://www.ukrn.org.uk/wp-content/uploads/2017/04/UKRN-Consumer\\_Engagement\\_WEB.pdf](http://www.ukrn.org.uk/wp-content/uploads/2017/04/UKRN-Consumer_Engagement_WEB.pdf)

<sup>50</sup> The UKRN report notes that this model is increasingly being used by regulators specifically in relation to price controls- examples include the Customer Forum, which negotiated directly with Scottish Water, and the Heathrow Consumer Challenge Board. There are no clear examples of this model within the financial services sector.

<sup>51</sup> MCAULEY, T., 2016. *Consumer engagement in regulation: what does good practice look like*. [online]. Available from: <http://www.lse.ac.uk/accounting/CARR/pdf/DPs/DP-82.pdf> p11

<sup>52</sup> CONSUMER UTILITIES ADVOCACY CENTRE. (2013). *Meaningful and genuine engagement: perspectives from consumer advocates*. [online]. Available from: [http://www.energynetworks.com.au/sites/default/files/4\\_cuac\\_consumer\\_engagement\\_report\\_2013.pdf](http://www.energynetworks.com.au/sites/default/files/4_cuac_consumer_engagement_report_2013.pdf) p39

financial services, advises and challenges the regulator, the Financial Conduct Authority (FCA). The FCA is required by law to consider representations made by the FSCP, and research suggests that the feedback which it gives to the FCA is taken very seriously by the regulator.<sup>53</sup> The Link Consumer Council is another example of a panel arrangement in financial services which brings together consumer representatives with industry representatives to ensure that the interests of consumers are taken into account in the governance and development of the LINK network.

Although some collective consumer fora such as panels have an external profile and voice, the main purposes are typically to represent the interests of consumers through the provision of expert advice to an organisation, and to provide input from an early stage in the development of policy.

It should be noted that the membership of group fora and how they are constructed can vary considerably. The Local Government Ombudsman Advisory Forum, for example, is made up of a majority of members of the public who have used the ombudsman service. It also includes representatives from local authorities and social care providers, as well as those who act as advocates for the public such as MPs and councillors.

Group fora were typically viewed, in both literature and this research, as an effective way of ensuring that different views were heard.<sup>54</sup>

“

*That way, you've got a really good panel of people, with all sorts of different areas of expertise, well covered around the table, and I think it works very well.*  
(consumer expert 10)

The Financial Services Consumer Panel was seen by those interviewed as a particularly good practice example of effective consumer representation. Advisory panels enable organisations to hear directly from their key stakeholders and amplify voices with different backgrounds and perspectives to those more commonly found in the boardroom.

The single sector specialism of advisory panels and group fora enables a clear focus on the specific areas of business, where members are uniquely placed to advise on complex issues. Being 'in the tent' provides the opportunity for early input into policy developments, access to privileged and sensitive information and provides the opportunity to be quietly influential.<sup>55</sup> Organisations can tailor the composition of such panels to fit the needs of their business and

<sup>53</sup> FINANCIAL SERVICES CONSUMER PANEL., 2013. *Consumer representation at EU level: A report and recommendations by Financial Services Consumer Panel* [online]. Available at [https://www.fs-cp.org.uk/sites/default/files/consumer\\_representation\\_at\\_eu\\_level\\_panel\\_final\\_report\\_dec\\_2013.pdf](https://www.fs-cp.org.uk/sites/default/files/consumer_representation_at_eu_level_panel_final_report_dec_2013.pdf)

<sup>54</sup> For a summary of the strengths and weaknesses of this model see ESAN ESSENTIAL SERVICES ACCESS NETWORK. 2016. *How can the consumer voice be better heard in the regulation of essential services*. <http://www.esan.org.uk/wp-content/uploads/Final-ESAN-event-paper-23-Dec-2016.pdf> p13 and COPPACK, M., JACKSON, F. And TALLACK, J., 2014. *Involving consumers in the development of regulatory policy*. [online]. Available from: <http://www.ukrn.org.uk/wp-content/uploads/2014/07/Involving-consumers-in-the-development-of-policy.pdf>.

<sup>55</sup> ESSENTIALSERVICES ACCESS NETWORK (ESAN). 2017. *How can the consumer voice be better heard in the regulation of essential services*. [online]. Available from: <http://www.esan.org.uk/wp-content/uploads/Final-ESAN-event-paper-23-Dec-2016.pdf> p13

stakeholder community, and the composition of the group forum could evolve over time to adapt flexibly to the main issues that an organisation is facing at any particular time.

One of the areas discussed with interviewees was that of building consensus to resolve conflict between different interest groups. One of the perceived strengths of the group structure was the fact that it allowed different views to be captured. It was also suggested that consensus was not always necessary.

“

*I think there is the potential for conflicting views, but I'm not sure it's the consumer council itself that necessarily needs to resolve it, because one model could be that the council just provides the full spectrum of views for the new payments system organisation, and the organisation then has to resolve the conflicts. (consumer expert 6)*

Some limitations with a group forum model were noted including the cost, the fact that attracting a diverse range of representatives can be difficult, and that sometimes the size of these groups is too large to lead to useful progress.

“

*While it would be lovely to have representatives of different consumer constituencies, I imagine there is a size of board after which it becomes unwieldy. (consumer expert 2)*

Other weaknesses noted in the literature were that a group forum can be viewed as a trusted ‘critical friend’,<sup>56</sup> but this can also be viewed negatively as a perceived lack of independence from the organisation. Limited resources may also hinder impact.<sup>57</sup>

The support of senior management for the group forum model is seen as essential if they are to operate effectively.<sup>58</sup> This reflects the findings of the literature noted in Chapter 4 that effective representation requires a culture that takes consumer views seriously.

### 5.4 Appointing a consumer representative to the Board

The other main consumer representation model identified in the literature and in our interviews was appointing an individual consumer representative (or more than one) to existing governance arrangements. Consumer representatives on boards can bring a new perspective to board

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<sup>56</sup> ESAN. *Ibid.* p13.

<sup>57</sup> ESAN. *Ibid.* p13.

<sup>58</sup> CONSUMER UTILITIES ADVOCACY CENTRE. 2013. *Meaningful and genuine engagement: perspectives from consumer advocates*. [online]. Available from.

[http://www.energynetworks.com.au/sites/default/files/4\\_cuac\\_consumer\\_engagement\\_report\\_2013.pdf](http://www.energynetworks.com.au/sites/default/files/4_cuac_consumer_engagement_report_2013.pdf) p40

discussions, particularly adding a longer-term perspective.<sup>59</sup> In their response to the government consultation on governance, Which? commented that by appointing consumer representatives, larger businesses have an opportunity to improve their legitimacy with their customers.<sup>60</sup> In many cases, organisations need to do much more to engage with consumers to influence their culture – and this should be led from the boardroom. This means challenging existing mind-sets and encouraging boards to ask themselves questions such as: ‘are we acting in the long-term interest of consumers?’ It also requires boards to act on insight and data about consumer views and interests, not to shape consumer behaviour, but to shape company behaviour and practice. Shifting corporate behaviour is particularly important in regulated sectors and where competition is weak and there are fewer market incentives to treat their customers with care and respect.

However, the imbalance between consumer representatives and other players, especially in relation to complex and technical issues, where the lay person is likely to be unfamiliar with the process, can place consumer representatives at a significant disadvantage. Research undertaken by the Financial Services Consumer Panel has highlighted some of the significant challenges consumer groups face in relation to representing consumers at European level<sup>61</sup>. The interviewees recognised this as a significant challenge in a single consumer representation model. There was concern that a single consumer representative on a board may be quite isolated, find it difficult to deal with the complexity of the sector and struggle to have any real impact.

“

*I think you would struggle to change an individual bank's culture by sticking a consumer representative on the board, because I think it would be seen as tokenistic, and that person would not get the ability to shape things as they hoped. (consumer expert 7)*

It was acknowledged that it was difficult for a single representative to take account of the needs of all consumers. Despite this, interviewees recognised that appointing individual consumer representatives was a step in the right direction to help create a more consumer centric culture ‘from the ground up’ (consumer expert 7). Assuming the principles of good consumer representation were followed – culture, people, process – an individual representative could still be effective.

“

*You don't stay a lone voice, if you have credibility, if you bring evidence and if you go down the problem, solution, benefit way. (consumer expert 10)*

<sup>59</sup> DEPARTMENT OF BUSINESS, ENERGY AND INDUSTRY. 2016. *Corporate Governance*. [online]. Available from: <https://www.gov.uk/government/consultations/corporate-governance-reform>

<sup>60</sup> Which? response to BEIS Corporate Governance Green Paper, February 2017, unpublished.

<sup>61</sup> FINANCIAL SERVICES CONSUMER PANEL. 2013. *Consumer representation at EU level*. [https://www.fs-cp.org.uk/sites/default/files/consumer\\_representation\\_at\\_eu\\_level\\_panel\\_final\\_report\\_dec\\_2013.pdf](https://www.fs-cp.org.uk/sites/default/files/consumer_representation_at_eu_level_panel_final_report_dec_2013.pdf)

It was also recognised that other members of the Board would be able to contribute a consumer perspective.

“

*Looking across the make-up of a board there might be lots of people with different hats on. (consumer expert 5)*

Roundtable participants commented that board members should have consumer interests at the heart of their decision making. Having a consumer representative should not be seen as a ‘bolt on extra’- all board members should understand consumer needs.

This chapter has discussed two models of consumer representation most suited to the payments sector. More than one interviewee commented that organisations need to be careful when relying on any one method, and that the model adopted should form part of a wider consumer engagement strategy embedded within the organisation.

“

*I think any organisation shouldn't rely on panels - there should be research, there should be outreach, and there should be an internal challenge function because every technique that you use has pros and cons. (consumer expert 1)*

A respondent to the online survey highlighted that individual consumer representatives may bring more passion to make change and be less likely to be swayed by outside pressures. In addition, it was pointed out that where group fora are used, having a representative on the board was still important (consumer expert 10).

“

*That doesn't mean that there shouldn't be a consumer representative on the board. There should, because the push back can come from the board, if you're not careful, to simply say, this is not our remit... you do need somebody at board level, to champion consumer views. (consumer expert 10)*

### 5.5 Appointing individuals or organisations as representatives

One of the issues that was explored in the interviews was whether representatives should be appointed as an individual or as representative of a consumer-facing organisation. Some interviewees thought that a degree of pragmatism may be needed, depending on who the person and organisation are.



“

*Sometimes you'll identify somebody who you just know you want on that panel because of their expertise...but then they can't come as representatives of their organisation because their organisation would say, this isn't core to our purpose. So I think it's having a grown up conversation and saying, how can we get your expertise on the panel and what's the best way for that. (consumer expert 1)*

Most interviewees favoured individual appointments, as their perception was that this helped to ensure that the appointee did not simply represent the views of the organisation they represented.

“

*I think it probably works better if the person is there in their own capacity rather than in the capacity of the organisation, because they will feel less constrained to only represent their organisation. They will be more willing to put forward alternative views, particularly if there's public reporting of Board conversations through minutes that are circulated. I think if they're in their own personal capacity, then their flexibility to take on broader perspectives is increased. (consumer expert 6)*

At the same time, it was recognised that working for an organisation would give them access to research and evidence that may not otherwise be available to them, as well as offering other added value as indicated below.

“

*If you're part of an organisation where you have access to conducting independent research and evidence, then I think that definitely has advantages, because I think in terms of branding, it helps industry to say, we're working with, and then naming an organisation that's clearly there to represent consumers... I think that can add credibility. (consumer expert 8)*

*I think when you appoint individuals you tend to appoint organisations. It's like if somebody's on a board they normally represent their organisation's beliefs because that's where they're getting their intelligence and insight from. So I suspect it would be a bit more honest and probably more effective to appoint an organisation. (consumer expert 9)*

## 5.6 Attracting good consumer representatives

Bearing in mind the requirements for a good consumer representative to have the confidence of the consumer movement, it can be challenging for industry-led bodies to identify the ‘right’ people. In terms of recruiting consumer representatives, interviewees accepted that there was a balance to be addressed between attracting representatives with a relevant consumer background and having an open advertisement policy.

Some felt that at present, consumer representatives often tended to be the ‘usual suspects’, and that more could be done to attract a more diverse range of representatives.

“

*We know that with quite a lot of consumer representation there is a sense of going to the same organisations, or mining networks people already know. And it's really understandable why it's done that way. But it would be good to throw the net wide. (consumer expert 2)*

*If you look at the membership of committees ...it's the same people that are recycled all the time and they look no further. (consumer expert 4)*

When considering the payments sector, others felt that in order to attract the right person a direct approach may be necessary, particularly in light of the fact this sector is an area which is not familiar to many consumer organisations, and is not likely to be seen as a priority.

## 5.7 Building subject expertise

As noted above, payments is a fast moving industry, with many of the initiatives focused on improving outcomes for consumers. Consumer representation is therefore vital. But a large part of the work in payments focuses on the ‘plumbing’ of payments, which has an indirect impact on consumers. And the technicalities of payments can be difficult to get to grips with, especially for resource-stretched organisations, which may focus on the more directly ‘felt’ consumer issues like financial exclusion and debt.

Overall, the research suggested a lack of knowledge and experience of the payment sector amongst consumer representatives. Few of the interviewees were familiar with all three bodies that formed the focus of this work: CASS, the New Payment System Operator and the Open Banking Implementation Entity. Many of those interviewed had exposure to only one of these areas (although through the research they gained new insights into these organisations).

The roundtable acknowledged that payments are not likely to be at the forefront of the ordinary customer’s mind, and that consideration needed to be given to how to create the necessary interest to get people engaged. Interviewees noted that it was not an area that consumer organisations had traditionally engaged with to any great extent.



“

*...so payments specifically, I don't think that's always at the top of an organisation's list of things. They might be interested in debt, but I wouldn't expect many small organisations to be experts in [payments].*  
(consumer expert 1)

*I think that's our big gap in our stakeholder engagement. We have good relationships with the banks, the regulators, government, down to how the consumer reps operate in this area. But not the financial technology sector, the smaller firms that are at the cutting edge of developing apps that are going to utilise open banking.* (consumer expert 6)

Interviewees also highlighted that there is a significant amount of activity by industry in this sector which it is difficult for consumer groups to match, which placed them at a serious disadvantage.

“

*you know that each of the industry representatives that are appearing at those meetings are backed by a small team back at their offices who are actually writing the consultation responses and coming up with views on the various documents and issues that the regulator's raising. Whereas the individual consumer representatives don't have that same sort of support.*  
(consumer expert 11)

A number of respondents highlighted the good practice in engaging consumer representatives that had been developing in relation to Open Banking, although others thought that engagement between industry and consumer representatives had been slow.

It was widely recognised that there were not likely to be many people with knowledge of payments as well as a consumer background. Individual representatives are therefore likely to need assistance to develop the expertise necessary to effectively represent consumers in this area.

“

*You can probably learn your way around most of the things that people need to know in terms of how the payment systems work and how you might bring about change.* (consumer expert 3)

Comments at the roundtable and from the interviews suggested that knowledge of the sector is something that consumer representatives can be supported to develop. Subject expertise is a

key aspect of the ‘people’ part of effective consumer representation highlighted. Given the challenges in the payments sector, ‘processes’ that support capacity building and training are therefore essential.

It was suggested that likewise, boards could also be trained to understand consumer needs better. Some pointed out that without support, the effectiveness of consumer representatives in representing consumer interests may be compromised.

“

*Payments systems is quite technical, it's quite easy, as I recall from my time with it, for the operators to blind people with science. (consumer expert 12)*

Since knowledge is just one factor to be taken into account when appointing consumer representatives, it was felt that wider transferable skills were just as important in terms of appointing a consumer representative. However, knowing that this technical and financial knowledge needs to be nurtured has an impact on resourcing.

### 5.8 Resourcing consumer representatives

The issue of financial support for consumer representatives by the organisation in question arose in a number of contexts, and there was a strong consensus that financial support was essential. Many interviewees expressed the view that effective consumer representation could not rely on ‘goodwill and volunteering’ (consumer expert 7) and that organisations need to ‘value the expertise that you’re bringing in’ (consumer expert 10). Not paying people was seen as a barrier to taking part, which could undermine effective consumer representation.

“

*I think if they’re working in a professional industry where it’s their professionalism that’s required to try and direct policy or practice, then yes, I would probably say they probably should be paid a consultancy fee along with anyone else round the table. (consumer expert 8)*

Financial support was seen as important, not just for individuals, but also for consumer organisations, whose overstretched resources would make it difficult for them to take part otherwise as it took resource away from other funded client work. Others said that funding this work enabled those working on the front line to engage.

“

*Well, I think the barriers, really, are time and resource...taking time away from client work, where we’re getting paid. (consumer expert 7)*

*I think it's really important to make sure that you have people who are currently directly in frontline organisations too, so it might be a payment to some organisations like Citizens' Advice, so that somebody from the frontline is freed up to feed in as well, so just mixing up the types of people. (consumer expert 1)*

Funding consumer representation work was seen as a cost-effective use of resources. Some interviewees pointed out that the failure to adequately address consumer interests when designing processes resulted in an advice need, with those costs being passed on in the longer term to the advice sector, including many charities (consumer expert 10). One representative highlighted the fact that funding consumer representation work was seen as a matter of corporate pride in the Water Industry (consumer expert 8). The issues are summed up in the quotation below.

“

*You cannot expect good people to do this kind of work on a pro bono basis, especially if they are consultants, or independents, or freelancers. And, if they are there representing an organisation then, yes, the organisation should receive payment. In the main, most consumer organisations are charities, and why should you expect the charity sector to be picking up the cost, in effect, of running your board properly. So, I do think there should be payment, yes.*  
(consumer expert 10)

One interviewee also pointed out that if consumer representatives were paid, this would help to widen the pool of potential applicants.

“

*The final thing is that payment means you're not completely dependent on people who are rich or retired or both. If you want an element of diversity and if you want to be able to pull people in from a range of different backgrounds then I think you've got to be prepared to pay. It doesn't need to be a lot, but it does need to be enough. (consumer expert 3)*

The disadvantage associated with paying consumer representatives is the potential conflict of interest that could arise. Payment could lead to a perception that the consumer representative is not independent, as they may feel constrained to act when being paid by the organisation they are required to challenge. Having clear processes for appointments, and a code of conduct for representatives which sets out their duties to represent consumers, addresses confidentiality and also sets out the organisation's responsibility to build a collegiate culture within which the representative feels able to express their views, can help address this issue.

Helpful guidance on appointment criteria for consumer representatives in government and industry has been produced by the Commonwealth Consumer Affairs Advisory Council<sup>62</sup>. They also recommend that representatives are paid a sitting fee or, depending on the body, an annual salary. They are entitled to reasonable expenses and are given access to ongoing training and other professional development as appropriate. This seems to suggest that the payment of consumer representatives *per se* is not seen as raising any conflict of interest.

Ensuring tenure of appointment is of the appropriate length can also mitigate against perceptions of 'capture'. In discussions, interviewees believed that a three-year tenure was appropriate, in keeping with established good corporate governance. This was sufficient to allow people the opportunity to bed-in and contribute.

“

*Well, I think the ideal model is something like three plus three. So I would appoint people for three years, renewable for a further three.....I don't think you want less than three years because you want enough time to bed down properly and want people to feel reasonably independent while they're there so they are not worrying whether they'll be reappointed from one year to the next.*  
(consumer expert 3)

A number of those interviewed suggested that it was important that appointments are staggered to ensure that terms of office did not all end at the same time and that some continuity was maintained. This is particularly important in the payments sector, where the information asymmetries between industry and consumer representatives are high.

Resourcing these appointments not only involves paying the representative but also providing for an appropriate research budget and administrative and technical support. Many of those interviewed emphasised the fact that they were most effective when they had access to research which provides an evidence base for actions taken. This reflects the literature cited in Chapter 4. An ability to access funds for research is therefore particularly important.

### 5.9 Evidencing impact and outcomes

The final issue explored with interviewees was evaluation and the performance criteria to be used to evaluate the consumer representation model adopted. Interviewees recognised that evaluation was not straightforward and that it was often not routinely done. For example, in some cases the impact of consumer representation may not be immediately obvious. However, they thought there was merit in considering how it can be addressed.

There was little consensus on what would be considered good practice, but a number of measures were suggested as worthy of consideration. These included ensuring that clear objectives had been set for consumer representation (and wider engagement) and then checking to see whether they had been met. Others proposed identifying Key Performance Indicators (KPIs).

<sup>62</sup> COMMONWEALTH CONSUMER AFFAIRS ADVISORY COUNCIL. 2005. *Principles for the appointment of consumer representatives: A process for governments and industry* [online] Available from: [http://archive.treasury.gov.au/documents/994/PDF/consumer\\_reps.pdf](http://archive.treasury.gov.au/documents/994/PDF/consumer_reps.pdf)

There was a discussion at the roundtable on the practical tools that can be used to promote accountability within a board. It was suggested that the provision of appropriate KPIs to both the board and collective forum would help. A number of respondents highlighted the value of reflective and narrative, rather than, quantitative tools. Simple measures such as ensuring the views of consumer representatives are minuted were seen by some as helpful.

“

*So I think feedback and evaluation are probably two of the most important principles and the ones that are most frequently missing from consumer engagement strategies. They can all talk about what information they've given or how many consumer groups have responded to a consultation, but they can't really say what changes they'd made to their policies. (consumer expert 11)*

*I don't think it is possible to measure specifically the micro-impacts of consumer representation. I think that what is important is that financial markets work well for consumers. So they should be getting good value for money, fair treatment, if things do go wrong, but things should not routinely go wrong. All of those normal consumer outcomes - being able to trace those back to consumer representation I just think is unrealistic. (consumer expert 2)*

Some representatives highlighted that effective consumer representation does not start or end with attendance at a ‘meeting’ but has to include much more than that. Being clear about the role of consumer representatives from the start therefore is essential.

Individual representatives also highlighted the importance of self-reflection as a mechanism for evaluating their input.

“

*Well, I have to ask myself, directly, every day, basically, did you do a good job there, did you actually add value? (consumer expert 10)*

Given the challenges to consumer representation outlined by the UK Regulators’ Network in Table 3, facilitating effective consumer engagement requires a clear investment by the host organisation which is only likely to materialise where there is a sufficiently consumer-focused culture.

## 6. Conclusions

The aims of the research were to (1) identify ways in which the availability and quality of consumer representation can be improved in the payments sector; and (2) ensure that good consumer outcomes remain at the centre of deliberations about how to develop, deliver and monitor the effectiveness of new products and services. Drivers for consumer representation are found in some of the negative experiences of consumers in the financial services sector and the commensurate response from the regulators to address the shortcomings.

The literature review focused on consumer representation and engagement, drawing learning from financial services broadly and other sectors. The interviews, survey and roundtable event provided a more localised view of consumer representation in three key parts of the payments landscape: the NPSO, the Current Account Switch Service and the Open Banking Implementation Entity.

On the basis of the research findings, we have reached six conclusions as to how effective consumer representation might be developed within the payments sector.

### **Conclusion 1: Consumers should be put at the heart of all decision making**

Consumer representation should be viewed as part of a company's broader consumer engagement, communication and advocacy strategy. Consumer values should be at the heart of service providers' culture and strategy.

All organisations should consider appointing consumer representatives on their boards and consider how their company is adequately informed by consumers. They should set clear, measurable goals for consumer engagement and good consumer outcomes. Companies should ensure their policies and practices meet the needs of consumers and prepare and publish plans for the creation of an organisational culture which is receptive and welcoming to consumer input.

Companies should also enable consumer representatives to have a clear role in setting the agenda for meetings. On boards, consumer interests should drive all parts of the agenda so that all members are clear how the organisation as a whole is delivering for the end-user. All board members should intentionally cultivate their own knowledge of the issues faced by consumers.

Companies should engage with consumer representatives in an open and transparent way, with key data regarding their activities made publicly available and accessible on the internet. Consumer representatives should be involved throughout the product and policy development lifecycle, as well as its implementation and distribution.

### **Conclusion 2: Consumer representation should be structured to include both board and collective forum representatives and supplemented by direct outreach to other consumer groups**

Appointing representatives as individuals on boards and to some form of collective forum are the dominant models which provide for influential consumer representation.

This structure reflects the approach to governance for CASS, OBIE and the NPSO and facilitates effective representation of consumer interests through the provision of expert advice and input to developments at all appropriate stages.



However, these approaches must be supplemented by activities which proactively reach out to other consumer groups, explain the issues in ways which can be understood and are relevant to resource-stretched organisations whose focus may be on more directly ‘felt’ issues experienced by consumers, like debt or financial exclusion.

### **Conclusion 3: Consumer representation structures should be adequately resourced to rebalance power between the industry and the consumer**

The consumer engagement strategy must include the allocation of resources to attract and pay consumer representatives, train them, enable further research/evidence gathering and administrative support. This is particularly important in payments and the financial services sector as a whole, where consumer representatives are often at a disadvantage compared to their fully resourced counterparts in the industry.

Recruitment for consumer representatives should be open, and they should be paid at the market rate. Consumer representative appointments should be for three years and should be on a rolling programme.

### **Conclusion 4: The role and way of working of consumer representatives should be transparent and influential**

In order to promote transparency, the organisation’s key consumer objectives, performance information, minutes of meetings and annual reports should be made publicly available.

Consumer representatives should take a broad perspective to their role, speaking out for consumers, ensuring their work is informed by research and reaching out to stakeholders and consumer interest groups. The role should include seeking to influence the provision of products and services and build understanding of the consumer within the organisation. The representatives’ approach should be one of challenging organisations and decision makers to do the right thing and to support them when they do. Consumer representatives should also seek to extend their influencing role to key industry decision makers, including government and regulatory bodies.

### **Conclusion 5: It is important to appoint and develop effective consumer representatives**

The key attributes and skills of consumer representatives should be specified and made publicly available. These should include an understanding of grassroots consumer issues and key transferable skills – for example communication, negotiation and analytical skills; confidence, robustness and an ability to challenge – which may be more important than subject knowledge where this may be in short supply in highly technical sectors.

Training and capacity building should be provided to consumer representatives for collective forum and board roles. This is especially important in payments which is a fast-moving and technology-based industry.

### **Conclusion 6: The effectiveness of consumer representation should be evaluated**

Clear, measurable objectives should be set for the organisation’s approach to consumer engagement and consumer representation.



Key performance indicators should be established to focus consumer representative work and provide a mechanism for evaluation of their performance. The company should also seek to evaluate its own performance and its contribution to good consumer outcomes.

Evaluation should not be limited to quantitative measures. Narrative and case studies should be considered as mechanisms for demonstrating impact and the challenges faced.

### APPENDIX 1 – Methodology

The research was conducted in four phases:

#### Phase 1- Literature review

Desk research was carried out to provide a comprehensive review of the literature. The literature review covered consumer representation generally, in financial services and more specifically in the payments sector. The literature review also enabled the researchers to develop work underpinned by the latest research into consumer voice, empowerment, participation and consumer engagement. To add depth and ensure the research built on the latest knowledge, it also drew on examples from the financial sector and more broadly. The review aimed to recognise the complexity of financial services products, acknowledge the challenges of engaging consumer and SME representatives, and discuss how these may be overcome with innovative solutions. The findings were used to identify best practice and to inform the interview stage (phase 2) of the project.

#### Phase 2- Interviews and online survey

Interviews were carried out with twelve key stakeholders from across the UK, including financial sector representatives, advice bodies, independent experts and consumer and small business representative groups. Particular attention was paid to securing the views of those with knowledge of vulnerable groups. Telephone interviews were conducted to facilitate participation in the research. Interviews were semi-structured, enabling the interviewers to follow up points of interest and the interviewees to raise issues they deemed as relevant. All data in this report has been anonymised. Interview data was transcribed using professional transcription, and the data uploaded to the Nvivo computer analysis software. The data analysis approach involved 'thematic analysis' and follow the directions of Miles et al (2014) qualitative data analysis handbook. While the data cannot provide a full picture of consumer representation, it can provide insight into the factors that are more likely to lead to effective consumer representation.

An online survey was also sent out to a wider group of stakeholders. This used the Bristol Online Survey tool which allows respondents to participate anonymously and for analysis of responses across a range of parameters. The online survey was designed to extend the scope of the research and to provide an opportunity for those who were unable to participate in interviews to contribute. Eight participants were invited to contribute. Three responded to the survey.

#### Phase 3 – Analysis

An overall analysis of the data gathered in the earlier phases was carried out, and a report was prepared drawing conclusions and making clear recommendations on how effective consumer representation can be achieved, taking account of best practice and the particular complexities of the banking and payments sector.

#### Phase 4 – Roundtable Event

A roundtable event was held in London in July 2017 to discuss output from our research project which aims to determine a model of effective consumer representation, particularly in financial services, with reference to the payments sector.

## Participants in the interviews, online survey and roundtable event

Participant	Company
Liz Barclay	Money Advice Liaison Group
Miles Cheetham	Open Banking IE
Martin Coppack	Financial Inclusion Commission
Ben Crabb	Money Advice Service
James Daley	Fairer Finance
Simon Hanson	Bacs Payment Schemes
Natalie Hicks	Bacs Payment Schemes
Alex Jackson	Current Account Switch Service
Jo Kenrick	Current Account Switch Service
Joe Lane	Citizens Advice
Dominic Lindley	New City Agenda
Stephen Locke	Payment Systems Regulator Panel
Yvonne MacDermid	Money Advice Scotland
Richard Piggin	Which?
David Piper	Current Account Switch Service
Brian Pomeroy	Financial Reporting Review Panel
Chris Pond	Equity Release Council
Gail Walker	Citizens Advice Scotland
Anonymous	Financial Services Consumer Panel
Anonymous	Money.co.uk

## APPENDIX 2 - Interview schedule for telephone interviews

<b>Introduction and orientation</b>
<p><b>Note on terminology</b></p> <ul style="list-style-type: none"> <li>• ‘Consumer’ is defined in line with the project outline as including individuals and SMEs that use (or would like to use) the service provided</li> <li>• Some of the questions may be adapted depending on the experiences of the interviewee.</li> </ul>
<b>Part 1: General - Role and approach to consumer representation</b>
<b>Q1:</b> What is your view on the role of consumer representation in financial services
<b>Q2:</b> What do you see as the difference between consumer engagement and consumer representation?
<b>Q3:</b> What roles do you / does your organisation play as a consumer representative in financial services or payments?
<b>Q4:</b> When do you think that you / your organisation is most effective in relation to consumer representation?
<b>Q5:</b> The literature suggests certain key principles are important for effective consumer representation (for example access, information, choice, representation, fairness, safety, redress). Which key principles most resonate with you and why?
<b>Q6:</b> How can we ensure consumer representatives consider the needs of all consumers as opposed to solely focusing on those supported by their organisation/within their area of expertise?
<b>Q7:</b> The interests of consumer representatives, SME representatives and third parties such as price comparison websites and personal financial management platforms may align on some issues but not others. On what issues do you think those interests will be the same and when will they differ?
<p><b>Part 2: CASS undertakings</b></p> <p>In 2014 the Competition and Markets Authority (CMA) launched an investigation into the retail banking market; their report was published in November 2016 and recommended an integrated package of remedies that should be imposed upon the market. These remedies included a range of undertakings for the Current Account Switch Service (CASS) which were all accepted by Bacs, as owners and operators of CASS, in 2016. One of these undertakings was to ensure that CASS governance includes independent non-bank or building society representatives with suitable skills and experience to contribute effectively to developing and implementing the CASS Strategy.</p>
<b>Q8:</b> What role would you expect consumer representation to play in the governance of CASS?
<b>Q9:</b> How should consumer representation be structured in relation to the CASS?
<b>Q10:</b> What role would you expect to play in representing consumers if you/your organisation joined a CASS committee?
<b>Q11:</b> What barriers to engaging in this work could you foresee? What might the solutions be?
<p><b>Part 3: New Payment System Operator (NPSO) and the new consumer council</b></p> <p>The Payments Strategy Forum – created by the Payments Systems Regulator (PSR) – proposed the consolidation of three Payment Service Operators (PSO) Bacs Payment Schemes, Faster Payments, and Cheque and Credit Clearing Company in their final strategy document published in November 2016. The proposal outlined the consolidation of the three PSOs under a New Payment System Operator (NPSO) whose aim would be to “support a vibrant UK economy enabling a globally competitive payments industry through the provision of robust, resilient, collaborative retail payments services [...]”. In response, the Bank of England and PSR set up the</p>

NPSO Delivery Group which has outlined plans for the NPSO and targets delivery for the end of 2017.
<b>Q12:</b> <i>What role would you expect the Consumer Council to play within the New Payment System Operator?</i>
<b>Q13:</b> <i>How do you think the Consumer Council for the NPSO should be structured (and why)?</i>
<b>Q14:</b> <i>What would that require from the NPSO Board in terms of practical arrangements, approach or culture?</i>
<b>Q15:</b> <i>What kind of tools (a set of principles, voting among members etc) might the Consumer Council use to address conflicts of interest between different groups of end-users in payments and ensure fair representation?</i>
<b>Part 4: Open Banking Implementation Entity (OBIE)</b> The Open Banking Implementation Entity (OBIE) was set up in response to the Competition and Market Authority's (CMA) retail banking market investigation which concluded in November 2016. The OBIE was created to address the requirement for the largest nine current account providers to provide standardised product and reference data and secure access to specific current accounts to read transaction data and initiate payments via a standardised Application Programming Interface (API). To date, OBIE has delivered a standard for Open Banking in the UK whilst the nine providers have each implemented an API which allows access to their standardised product information. The full functionality of Open Banking is expected to go-live in January 2018.
<b>Q16:</b> <i>Are you aware of the changes that Open Banking brings and how they might affect consumers?</i>
<b>Q17:</b> <i>What role should consumer representation play here and how should it be structured?</i>
<b>Q18:</b> <i>A lot of the work of the Open Banking Implementation Entity is technology focused on the mechanics of screen-scraping versus APIs or cybersecurity and fraud. What might help you engage (further) with the issues of Open Banking?</i>
<b>Part 5: Final thoughts</b>
<b>Q19:</b> <i>Performance criteria - what essential criteria should consumer representation meet to improve consumer outcomes?</i>
<b>Q20:</b> <i>What skills, knowledge and qualities do consumer representatives need to ensure that consumer representation works positively and effectively for both the consumer and the provider?</i>

## APPENDIX 3 - Online survey

### Consumer representation in the UK financial services payments sector

#### Introduction

Bacs, owner of the Current Account Switch Service (CASS), has commissioned Queen Margaret University, Edinburgh to conduct research into consumer representation in financial services, with particular reference to the payments sector. The aim is to provide an evidence base on which decisions on how to provide effective consumer representation can be made.

There are 13 questions for you to answer and completing the survey should take no more than 15 minutes. All data gathered is anonymous and we will not attribute answers to any individual nor named organisation. It would, however, be helpful if you would enter the name of the organisation you represent when asked so that we can gauge input received. The list of organisations will be published in the report. If you feel a question is not relevant to you, please enter Not Applicable in the answer space. If you do not have the knowledge to answer a question please enter Don't Know. You can exit from the survey at any point if you decide you do not wish to participate. Your responses are not recorded until you press the 'Finish' button at the end of the survey.

In answering the following questions please think of payments sector consumers as including individuals and small and medium sized enterprises and other businesses that use, or would like to use, financial services. Please answer as fully, and provide as much specific detail, as you can.

#### Question 1

What in your view is the role of consumer representation in financial services?

#### Question 2

What needs to be in place to ensure effective consumer representation in the financial services sector?

#### Question 3

What steps should organisations and consumer representatives take to ensure the needs of the entire diverse range of consumers are represented?

#### Page 6: Question 4

How do you decide on the key consumer issues in financial services and payments on which you want to represent consumers?

#### Question 5

How do you identify emerging consumer risks?

#### Page 8: Question 6

Technology has added to the complexity of the financial services and payments sector. How does this impact on consumer representation? What needs to be put in place to help representatives to deal with this complexity?

#### Question 7

What cultural changes are required in the financial sector to make consumer representation more effective?

Question 8

What skills, knowledge and qualities do consumer representatives need to ensure that consumer representation works positively and effectively for both the consumer and the provider in the financial services payments sector?

Question 9

What are the advantages of individually remunerated consumer representatives on committees v. organisations that represent consumers?

What are the advantages of organisations that represent consumers v. individually remunerated consumer representatives on committees?

Question 10

What should be the key performance measures for consumer representation in the financial services payment sector?

Question 11

How should consumer representation in the financial service payments sector be structured?

Question 12

Are you aware of the changes that Open Banking brings? If yes, what impact do you think they will have on consumers?

Key for selection options

12 - Are you aware of the changes that Open Banking brings?

Yes

No

Don't know

Thank you for contributing your thoughts



## APPENDIX 4 - Additional models for a strategic approach to consumer engagement

There are many examples of models which can be included as part of a broader consumer engagement strategy which is beyond the focus of this research on consumer representation in financial services. Some of the following examples may be of interest to representatives who are involved in developing a strategic approach to consumer engagement.

These case studies illustrate options available and inform decision making about the creation of appropriate forms of consumer representation within the payments sector. In selecting and outlining these, attention has been paid to why the attributes of each might be relevant to the issues faced by this sector.

Note: Many other possible models are available for broader consumer engagement- the list below is not exhaustive.

### Citizens' Juries

Citizens' Juries provide a way of showing the wider community's informed attitude towards a certain issue. Their advantage over other forms of community consultation rests in the opportunity Citizens' Juries offer to bring together a diverse range of ordinary community voices who work together to develop a deep understanding of an issue, gaining expert input, collectively discussing and deliberating over the issue at depth and providing a collective final outcome.

Citizens' Juries offer the opportunity for the voice of the silent majority to be captured and vested interests avoided and, through group information gathering, questioning, challenging, reflection, discussion and deliberation for sound judgements to emerge. Citizens' Juries are a form of participatory research which is used in a range of areas including health care<sup>63, 64</sup>, youth issues<sup>65</sup> and policy making<sup>66</sup> both internationally<sup>67, 68</sup> and in the UK. Juries are formed of a small group (normally 10-16) of typical, but representative, community members, who deliberate over a period of 2-4 days supported by expert witnesses and a moderator. Publication of jury processes and outcomes legitimise the process. The Citizens' Jury approach offers an appropriate and helpful consumer representation mechanism in the financial sector as it provides an opportunity for informed consumer input, reflecting a diverse range of views, to be developed. The investigative and deliberative approach adopted by the Citizens' Jury model enables the development of deep knowledge upon which views are formed. In addition, Citizens' Juries encourage reflection and the development of insight within the sector through the challenging and questioning of expert witnesses.

<sup>63</sup> SCOTTISH HEALTH COUNCIL. 2014. *Why use Citizens' Juries*. [online]. Available from: [http://www.scottishhealthcouncil.org/patient\\_public\\_participation/participation\\_toolkit/citizens\\_juries.aspx#.WXBx9zi0vZ4](http://www.scottishhealthcouncil.org/patient_public_participation/participation_toolkit/citizens_juries.aspx#.WXBx9zi0vZ4)

<sup>64</sup> CONNECTED HEALTH CITIES. 2016. *Citizens' Juries*. [online]. Available from: <https://www.connectedhealthcities.org/get-involved/citizens-juries/>

<sup>65</sup> CARSON, L. 2004. *Consult your community: a guide to running a youth jury*. [online]. Available from: <http://www.activedemocracy.net/parrayouth/docs/youth-juries-handbook.pdf>

<sup>66</sup> BBC. 2007. *Q and A Citizens' Juries*. [online]. Available from: [http://news.bbc.co.uk/1/hi/uk\\_politics/6979825.stm](http://news.bbc.co.uk/1/hi/uk_politics/6979825.stm)

<sup>67</sup> UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. 2017. *Public participation guide: citizens' juries*. [online]. Available from: <https://www.epa.gov/international-cooperation/public-participation-guide-citizen-juries>

<sup>68</sup> NEW DEMOCRACY. 2017. *What is a citizens' jury?* [online]. Available from: <https://www.newdemocracy.com.au/library/what-is-a-citizens-jury>

### World café model

This could be an attractive model for consumer engagement on a complex topic. Used, for example at Queen Margaret University, to enable consumer engagement with the complex area of equity release products, participants were able to contribute their views in several groups focusing on one topic at a time. Groups were facilitated by experienced people to enable all participants to engage in the discussion. The subject can be brought to life using drama and participants then give their views on their tables – this can also be done in writing on the paper tablecloths which become part of the data set.

Audience participation ‘Poll Everywhere’ could be used to capture views throughout the event and keep interest. With the combination of food, drama and the buzz of activity, this can be a lively way of engaging interest and can be designed to draw from particular socio-economic groups and networks (such as the Women’s Rural, lunch clubs and church groups). Following this type of event, consumers could be invited to participate in more detailed work.

Experience of using this approach at the University produced very useful data which provided an insight into perceptions of complex equity release products<sup>69</sup> (Brennan and Ritch 2010; Ritch and Brennan 2010). It is an approach which could be used as one element of preparation for more detailed areas of business. The process requires a good level of organisation, skilled facilitators, research analysts and has a number of associated costs, including incentives (such as vouchers) for participation.

### Our Voice project and framework

The Scottish Health Council Our Voice project<sup>70</sup> takes an integrated perspective delivering representation across individual, local and national levels. At individual level, people provide feedback which is used to drive and inform continuous improvement to services. At local level, peer networks support people to engage purposefully in local planning of health care provision. Guidance, tools and techniques are provided and particular focus is given to engaging with those whose voices are not always heard. At national level, a citizen voice ‘hub’ gathers intelligence on issues of concern, involving as wide a range of people as possible, provides evidence for improvement and operates Citizens’ Panels. A leadership coalition of users, carers, leaders, local authorities and the third sector guide the development of this framework<sup>71</sup> and act as champions for a stronger citizen voice within their own organisations. This body is chaired by a member of the public. At all levels people are provided with feedback on the impact of their engagement, or a demonstration of how their views have been considered.

The integrated nature of this approach would seem an appropriate model for consumer representation in the financial sector which also involves multiple players, a diverse consumer body and complex environment where the change in one part of the system can have a wider impact.

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<sup>69</sup> BRENNAN, C. AND RITCH, E. 2010. Capturing the voice of older consumers in relation to financial products and services *International Journal of Consumer Studies*, 34, 212–218.

RITCH, E. AND BRENNAN, C 2010. Using World Café and drama to explore older people’s experience of financial products and services. *International Journal of Consumer Studies*, 34, 4., pp. 405–411.

<sup>70</sup>SCOTTISH HEALTH COUNCIL. 2017. *Our voice: working together to improve health and social care*. [online]. Available from:

[http://www.scottishhealthcouncil.org/patient\\_public\\_participation/our\\_voice/our\\_voice.aspx#.WXHX\\_jiovZ4](http://www.scottishhealthcouncil.org/patient_public_participation/our_voice/our_voice.aspx#.WXHX_jiovZ4)

<sup>71</sup>SCOTTISH HEALTH COUNCIL, *ibid*.

### Patient Participation Groups

Patient Participation Groups promoted by the Scottish Health Council operate at GP practice level to enable two-way communication between staff and patients, encouraging a patient perspective on local health services, patients who take responsibility for their own health and an efficient service tailored to patient need. This includes patients who reflect the diversity of the catchment population. The Scottish Health Council provides short video case studies describing the impact that Scotland's over 100 Patient Participation groups are having. Their start-up guide includes advice on how to recruit and ensure the group is representative and guidance on, for example, setting terms of reference and chairing of meetings.

### Consumer First Programme

In the energy industry, Ofgem runs its Consumer First programme<sup>72</sup>, where it gathers insight from various sources to inform policy. It runs workshops, regular surveys, video research and collaborative engagement. Its Consumer First Panel engages 80 consumers from four different areas of the UK. They meet regularly to discuss and inform Ofgem.

### Using complaints and feedback to hear the consumer voice

Complainants could be invited to share their voice. They will have experience of making a formal complaint, going through the process and being informed of the outcome. They may also have an interest in ensuring that the situation causing their complaint is not repeated so that others do not have to go through this experience. There is a role to monitor responses to complaints and ensure learning. There may be an opportunity to work effectively with organisations who deal with complaints about financial services.

Evidence of innovative case studies can be found in one of our research reports on using complaints to transform public services (Simmons and Brennan 2013). For example, in the health service, Patient Opinion (PO) took a complaint from the website and brought the complainants into a room with staff and other stakeholders for a Forum Theatre Workshop to consider the patients' experiences and outcomes. Fifty-two people made public 'pledges' about how they would amend their future behaviour. In the care sector, former staff members of a care home used the Care Quality Commission website to complain about abusive practices at the home. An inspection confirmed their complaints, and CQC have since engaged past users of health, mental health and social care services as Experts by Experience to help inspect and report on services. This approach enables more vulnerable people with experience of issues to work alongside professionals and make an effective contribution. These examples show how complaints can be used to transform services; this type of example could feed into the broader consumer involvement agenda.

### Crowdsourcing consumer feedback

There are many approaches to obtaining consumer feedback. Crowdsourcing consumer views online can provide useful feedback. One example is the RBS Ideas Bank which provides a transparent way for customers to share their opinions on services and suggest improvements. Customers can also comment/vote on other ideas. This crowdsourcing of ideas allows RBS to prioritise the issues affecting consumers and take steps to improve and offer practical suggestions to enable the Bank to better serve their customers.

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<sup>72</sup> OFGEM. 2017. *Consumer First Programme*. [online] Available from: <https://www.ofgem.gov.uk/about-us/how-we-engage/engaging-consumer-issues>

## APPENDIX 5- Project Team



**Carol Brennan** is a reader in consumer policy and Director of the Consumer Dispute Resolution Centre at Queen Margaret University, Edinburgh (QMU). Carol's research interests include consumer policy, complaint management, dispute resolution, consumer empowerment and customer experience. With a strong interest in knowledge exchange, Carol's work bridges the gap between academia and policy/practice. In addition to publishing regularly in academic journals, Carol has produced consumer policy and consumer dispute resolution reports for organisations including the report Grumbles, gripes and grievances: the role of complaints in transforming public services for Nesta. Carol is chair of the Scottish Legal Complaints Commission Consumer Panel and a member of the Office of Rail and Road Consumer Expert Panel. She is also Chair of the Qualifications and Awards Board for the Chartered Trading Standards Institute. Carol is the Project Lead for this research.



**Jane Williams** is a lecturer in consumer and business law at QMU whose current research focuses on dispute design in the context of consumer ADR. As a former manager in Trading Standards, Jane has direct experience of complaint handling, investigation, and enforcement of consumer law. She has previously published on the UK's experiences of implementing the Unfair Commercial Practices Directive. Jane continues to have strong links within the Trading Standards field across the UK. She is a member of the Chartered Trading Standards Institute and works with them as an examiner and moderator. Jane is a member of the QMU's Consumer Dispute Resolution Centre. She has extensive experience of running short courses for regulators, ombudsman organisations, and complaint handlers working in both the public and private sectors. Jane was recently appointed as a consumer representative to the Scottish Civil Justice Council and is also a member of their Access to Justice Committee.



**Sarah O'Neill** is a part-time lecturer in dispute resolution at QMU. Sarah is a non-practising solicitor, with many years' experience of working on consumer and access to justice issues. She was formerly Legal Officer at the Scottish Consumer Council, and then Director of Policy at Consumer Focus Scotland. In both those roles and latterly as an independent consultant, she has written many policy and research reports and consultation responses in the areas of civil and administrative justice, consumer redress, alternative dispute resolution and consumer law.

In 2014, Sarah wrote a policy report for Consumer Futures on Consumer protection, representation, and constitutional change in Scotland. Sarah has represented the consumer interest on various high level working groups, including the Scottish Tribunals and Administrative Justice Advisory Committee and the Expert Panel on Redress which advised the Scottish Government's Working Group on Consumer and Competition Policy for Scotland. She is a part-time legal chairperson of the First-tier Tribunal for Scotland (Housing and Property Chamber). She is an accredited mediator, and is a former member of the board of trustees of the Scottish Mediation Network. She is currently a board member with the Scottish Legal Aid Board. She is also a member of the Advisory Board of the UK Administrative Justice Institute, and of the University of Strathclyde Mediation Clinic Advisory Group.



**Sally Chalmers** is a Senior Lecturer in Communication and Public Relations at Queen Margaret University. She is currently Leader of the MSc Strategic Communication and Public Relations and QMU course leader for the Chartered Institute of Public Relations Internal Communications Diploma.

Sally works with QMU's Consumer Dispute Resolution Centre, teaching communication in dispute settings and undertaking research with a particular focus on informational justice issues. She has recently published in the International Journal of Bank Marketing on ethical fairness in financial services complaint handling.

Prior to joining the academic community Sally gained many years of experience in senior communication practitioner roles, including senior internal communication and communication performance roles, in high profile and global organisations. She has, in particular, held communication roles in the financial sector, with KPMG and accountancy firm Baker Tilly, and within a consumer representation organisation, the Welsh Consumer Council.

Sally also acts, and has a proven track record, as a communication consultant, having undertaken a number of projects within the public, as well as the private sectors in Scotland. She has also presented and published on communication topics in the UK and abroad. Sally is a member and accredited practitioner of the Chartered Institute of Public Relations.

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